



# **LAWS 2007, CONSTITUTIONAL AMENDMENT 1**

## **A JOINT RESOLUTION**

PROPOSING AN AMENDMENT TO ARTICLE 10, SECTION 1 OF THE CONSTITUTION OF NEW MEXICO TO ALLOW FOR MIDTERM SALARY INCREASES FOR COUNTY OFFICERS.

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

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

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

"The legislature shall at its first session classify the counties and fix salaries for all county officers, which shall also apply to those elected at the first election under this constitution. And no county officer shall receive to his own use any fees or emoluments other than the annual salary provided by law, and all fees earned by any officer shall be by him collected and paid into the treasury of the county. A board of county commissioners may provide a midterm salary increase for elected county officers as authorized by law."

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

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

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Senate Joint Resolution 7

# **LAWS 2007, CONSTITUTIONAL AMENDMENT 2**

## **A JOINT RESOLUTION**

PROPOSING AN AMENDMENT TO ARTICLE 12, SECTION 15 OF THE CONSTITUTION OF NEW MEXICO TO INCREASE THE SIZE OF CERTAIN SCHOOL BOARDS TO NINE MEMBERS AND CONDUCT THE ELECTION BY MAIL-IN BALLOT OR AS OTHERWISE PROVIDED BY LAW.

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

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

Section 1. It is proposed to amend Article 12, Section 15 of the constitution of New Mexico to read:

"A. In those local school districts having a population of more than two hundred thousand, as shown by the most recent decennial census, the qualified electors of the districts shall have a local school board composed of nine members, residents of and elected from single-member districts.

B. The school district shall be divided into nine local school board member districts that shall be compact, contiguous and as nearly equal in population as possible. One school board member shall reside within, and be elected from, each local school board member district. Change of residence to a place outside the district from which a school board member was elected shall automatically terminate the service of that school board member, and the office shall be declared vacant.

C. The school board member districts shall be established by resolution of the local school board with the approval of the state legislature, and may be changed once after each federal decennial census by the local school board with the approval of the state legislature.

D. Notwithstanding the provisions of Article 7, Section 1 of the constitution of New Mexico, the elections required under this amendment shall be called and conducted by mail-in ballot or as otherwise provided by law. The public education department shall establish the terms of the first board elected after the creation of such a nine-member board."

## **Constitutional Amendment 2 Section 2 Laws**

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 6, as amended

# **LAWS 2007, CHAPTER 1**

AN ACT

RELATING TO THE LEGISLATIVE BRANCH OF GOVERNMENT; APPROPRIATING FUNDS FOR THE EXPENSE OF THE FORTY-EIGHTH LEGISLATURE, FIRST SESSION, 2007 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 2007

### Section 1. SESSION EXPENSES.--

A. There is appropriated for the expense of the legislative department of the state of New Mexico for the first session of the forty-eighth legislature for per diem and mileage of its members, for salaries of employees and for other expenses of the legislature, seven million eight hundred seventy-four thousand one hundred dollars (\$7,874,100) or so much thereof as may be necessary for such purposes.

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

(1) per diem for senators ----- \$ 357,850;

(2) per diem for members of the house of representatives -----  
----- \$ 596,400;

(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 -----  
-- \$ 6,000;

(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 ----- \$ 9,100;

(5) salaries and employee benefits of senate employees -----  
----- \$ 2,506,682;

(6) salaries and employee benefits of house of representatives employees ----- \$ 2,097,200;

(7) for expense of the senate not itemized above, five hundred seventy-two thousand eight hundred sixty-eight dollars (\$572,868). No part of this item may be transferred to salaries or employee benefits;

(8) for expense of the house of representatives not itemized above, five hundred twenty-five thousand six hundred dollars (\$525,600). No part of this item may be transferred to salaries or employee benefits; and

(9) for session expenses of the legislative council service, the joint billroom and mailroom and joint legislative switchboard, one million two hundred two thousand four hundred dollars (\$1,202,400) to be disbursed upon vouchers signed by the director of the legislative council service.

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

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

## **Chapter 1 Section 2 Laws 2007**

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

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

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

(2) 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;

(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; and

(4) if requested, one copy to two other addresses specified by each individual member of the legislature.

B. Any person not listed in Subsection A of this section may secure a complete file of the bills, resolutions, joint resolutions, memorials and joint memorials of the legislature by depositing with the legislative council service the amount of seven hundred dollars (\$700), which deposit shall be paid to the state treasurer to the credit of the legislative expense fund. Additional single copies of items of legislation shall be sold for two dollars (\$2.00) unless the director of the legislative council service shall, because of its length, assign a higher price not to exceed ten cents (\$.10) per page. Copies of a daily bill locator, other than those copies furnished each member of the respective houses, shall be supplied by the legislative council service at a charge of two hundred thirty dollars (\$230) for the entire session.

### **Chapter 1 Section 3 Laws 2007**

Section 3. LEGISLATIVE COUNCIL SERVICE.--There is appropriated from the general fund to the legislative council service for fiscal year 2008 unless otherwise indicated, to be disbursed on vouchers signed by the director of the legislative council service or the director's designee, the following:

A. Personal Services & Employee Benefits	\$ 4,132,600
Contractual Services	189,000
Other Costs	1,101,700
Total	\$ 5,423,300;

B. for travel expenses of legislators other than New Mexico legislative council members, on legislative council business, for committee travel, studies, staff and other necessary expenses for other interim committees and for other necessary legislative expenses for fiscal year 2008, one million thirty-six thousand dollars (\$1,036,000); 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, furniture, equipment, supplies and personnel for interim session preparation, five hundred fifty-two thousand three hundred dollars (\$552,300); and

D. for a statewide legislative intern program, forty-five thousand dollars (\$45,000).

### **Chapter 1 Section 4 Laws 2007**

Section 4. LEGISLATIVE FINANCE COMMITTEE.--There is appropriated from the general fund to the legislative finance committee for fiscal year 2008, to be

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

Personal Services & Employee Benefits	\$3,335,100
Contractual Services	256,600
Other Costs	384,700
Total	\$3,976,400.

### **Chapter 1 Section 5 Laws 2007**

Section 5. LEGISLATIVE EDUCATION STUDY COMMITTEE.--There is appropriated from the general fund to the legislative education study committee for fiscal year 2008, to be disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits	\$ 1,019,600
Contractual Services	25,000
Other Costs	151,000
Total	\$ 1,195,600.

### **Chapter 1 Section 6 Laws 2007**

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-one thousand six hundred dollars (\$21,600) for fiscal year 2008.

### **Chapter 1 Section 7 Laws 2007**

Section 7. HOUSE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2008 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	\$ 893,800
Contractual Services	141,600
Other Costs	58,400
Total	\$ 1,093,800.

### **Chapter 1 Section 8 Laws 2007**

Section 8. SENATE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2008 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	\$ 851,150
Contractual Services	190,650
Other Costs	64,200
Total	\$ 1,106,000.

## **Chapter 1 Section 9 Laws 2007**

Section 9. LEGISLATIVE INFORMATION SYSTEM.--There is appropriated from legislative cash balances to the legislative council service for the legislative information system four hundred seventy-eight thousand nine hundred dollars (\$478,900) for expenditure during fiscal years 2007 and 2008.

## **Chapter 1 Section 10 Laws 2007**

Section 10. CATEGORY TRANSFER.--Amounts set out in Sections 3, 4, 5, 7 and 8 of this act are provided for informational purposes only and may be freely transferred among categories.

## **Chapter 1 Section 11 Laws 2007**

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

## **Chapter 1 Section 12 Laws 2007**

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

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House Bill 1, with emergency clause

Approved January 22, 2007

# **LAWS 2007, CHAPTER 2**

AN ACT

RELATING TO THE EXPENDITURE OF PUBLIC MONEY; PROVIDING FOR CAPITAL EXPENDITURES; MAKING GENERAL FUND APPROPRIATIONS; PROVIDING FOR

OPERATING EXPENSES AND OTHER EXPENDITURES; DECLARING AN EMERGENCY.

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

## **Chapter 2 Section 1 Laws 2007**

Section 1. GENERAL FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--

A. Except as otherwise provided in this section or another section of this act, the unexpended balance of an appropriation made in this act from the general fund shall revert to the originating fund as follows:

(1) for projects for which appropriations were made to match federal grants, six months after completion of the project;

(2) for projects for which appropriations were made to purchase vehicles, emergency vehicles or other vehicles that require special equipment, heavy equipment, educational technology or equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the appropriation was made for the purchase; and

(3) for all other projects for which appropriations were made, within six months of completion of the project, but no later than the end of fiscal year 2011.

B. Upon certification by an agency that money from the general fund is needed for a purpose specified in this act, the secretary of finance and administration shall disburse such amount of the appropriation for that project as is necessary to meet that need.

C. Except for appropriations to the capital program fund, money from appropriations made in this act shall not be used to pay indirect project costs.

D. For the purpose of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.

## **Chapter 2 Section 2 Laws 2007**

Section 2. AGING AND LONG-TERM SERVICES DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the aging and long-term services department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. twenty thousand dollars (\$20,000) to make improvements, including purchase and installation of equipment, to the Armijo senior meal site in Bernalillo county;

2. twenty thousand dollars (\$20,000) to make improvements, including purchase and installation of equipment, to the Pajarito senior meal site in Bernalillo county;

3. twenty thousand dollars (\$20,000) to make improvements, including purchase and installation of equipment, to the Rio Bravo senior meal site in Bernalillo county;

4. twenty-five thousand dollars (\$25,000) to plan, design, renovate and equip senior facilities in city council district 1 in Albuquerque in Bernalillo county;

5. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip a senior center in Tijeras in Bernalillo county;

6. fifty thousand dollars (\$50,000) to make improvements, including purchase and installation of equipment, to the Springer senior center in Colfax county;

7. forty-two thousand dollars (\$42,000) to construct a garage at the Melrose senior center in Curry county;

8. fifty thousand dollars (\$50,000) to plan, design, construct, expand and equip improvements, including purchase and installation of equipment, to the Mesilla Park community center in Las Cruces in Dona Ana county;

9. twenty-five thousand dollars (\$25,000) to design and construct an expansion of the San Jose senior center in Carlsbad in Eddy county;

10. twenty thousand dollars (\$20,000) to make improvements, including purchase and installation of equipment, to the Puerto de Luna senior center in Guadalupe county;

11. ten thousand dollars (\$10,000) to make improvements, including purchase and installation of equipment, to La Loma senior center in Guadalupe county;

12. thirty-five thousand dollars (\$35,000) to purchase and equip a vehicle for the Baca chapter senior center in the Navajo Nation in McKinley county;

13. seventy-five thousand dollars (\$75,000) to plan, design, construct and equip improvements to the senior center in the Thoreau chapter of the Navajo Nation in McKinley county;

14. one hundred thousand dollars (\$100,000) to plan, design, purchase or construct a senior center at the Whitehorse Lake chapter of the Navajo Nation in McKinley county;

15. thirteen thousand nine hundred dollars (\$13,900) to furnish the senior center, including tables and chairs, in Espanola in Rio Arriba county;

16. sixty-five thousand one hundred dollars (\$65,100) to purchase and install equipment for the Ohkay Owingeh senior center in Rio Arriba county;

17. twenty-three thousand eight hundred dollars (\$23,800) to purchase and equip a van for transporting senior citizens in Floyd in Roosevelt county;

18. three hundred thousand dollars (\$300,000) to plan, design, construct, furnish and equip the Eldorado senior center in the Eldorado area of Santa Fe county;

19. three hundred ten thousand one hundred dollars (\$310,100) to purchase land and plan, design, construct and equip a senior and community center in the Pojoaque valley area in Santa Fe county;

20. twenty thousand dollars (\$20,000) to make improvements, including purchase and installation of furnishings and equipment, to the Pasatiempo senior center in Santa Fe county;

21. seventy-eight thousand nine hundred dollars (\$78,900) to plan, design, construct, renovate, equip and furnish, including improvements to the parking lot and landscaping, the Edgewood senior center in Santa Fe county;

22. fifty-seven thousand seven hundred dollars (\$57,700) to plan, design, construct, equip and furnish a facility for the senior center in Edgewood in Santa Fe county;

23. fifty thousand dollars (\$50,000) to plan, design and construct additional facility space at the Edgewood senior center in Edgewood in Santa Fe county;

24. five thousand dollars (\$5,000) to purchase and install equipment and furnishings for the Phil Lovato senior center in Taos in Taos county; and

25. fifty-five thousand dollars (\$55,000) to purchase and equip a food delivery truck to deliver hot meals to seniors in Valencia county.

## **Chapter 2 Section 3 Laws 2007**

Section 3. STATE ARMORY BOARD PROJECT--GENERAL FUND.--Three million one hundred ninety-eight thousand eight hundred dollars (\$3,198,800) is

appropriated from the general fund to the state armory board for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for renovations at armory facilities statewide.

## **Chapter 2 Section 4 Laws 2007**

Section 4. CAPITAL PROGRAM FUND PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the capital program fund for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements to infrastructure at the Santa Teresa port of entry in Dona Ana county; and

2. three million dollars (\$3,000,000) to plan, design, construct, renovate and equip a substance abuse treatment center in Los Lunas in Valencia county.

## **Chapter 2 Section 5 Laws 2007**

Section 5. CULTURAL AFFAIRS DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the cultural affairs department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. one hundred thousand dollars (\$100,000) for a fresco painting at the Torreon building at the national Hispanic cultural center in Albuquerque in Bernalillo county;

2. ninety-six thousand dollars (\$96,000) for renovations to the visitor center facilities and site at Lincoln state monument in Lincoln county;

3. one hundred thousand dollars (\$100,000) to plan, design and construct renovations and purchase equipment for the museum of international folk art in Santa Fe in Santa Fe county;

4. fifty thousand dollars (\$50,000) for phase 1 construction of the New Mexico archaeology center to serve as a research and collections repository for the state's archaeological collection in Santa Fe in Santa Fe county;

5. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish improvements to and expansion of the Santa Fe children's museum in Santa Fe in Santa Fe county;

6. fifty thousand dollars (\$50,000) to construct and equip El Camino Real international heritage center in Socorro in Socorro county;

7. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to El Camino Real international heritage center in Socorro in Socorro county;

8. seventy-five thousand dollars (\$75,000) to plan, design and implement an interactive fine arts outreach program to be available statewide;

9. four hundred thirty-four thousand dollars (\$434,000) to purchase bookmobiles for use statewide; and

10. twenty-five thousand dollars (\$25,000) for restoration and conservation of the state's public art collection statewide.

## **Chapter 2 Section 6 Laws 2007**

Section 6. DISTRICT ATTORNEY OF THE FIRST JUDICIAL DISTRICT PROJECT--GENERAL FUND.--Twenty-five thousand dollars (\$25,000) is appropriated from the general fund to the district attorney of the first judicial district for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, to purchase a vehicle for the first judicial district attorney's office in Santa Fe in Santa Fe county.

## **Chapter 2 Section 7 Laws 2007**

Section 7. DISTRICT ATTORNEY OF THE THIRD JUDICIAL DISTRICT PROJECT--GENERAL FUND.--Forty-three thousand dollars (\$43,000) is appropriated from the general fund to the district attorney of the third judicial district for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, to purchase and equip secretarial workstations for the third judicial district attorney's office in Las Cruces in Dona Ana county.

## **Chapter 2 Section 8 Laws 2007**

Section 8. FIRST JUDICIAL DISTRICT COURT PROJECT--GENERAL FUND.--Twenty thousand dollars (\$20,000) is appropriated from the general fund to the first judicial district court for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, to purchase, install and equip an electronic document management system in the first judicial district court in Santa Fe in Santa Fe county.

## **Chapter 2 Section 9 Laws 2007**

Section 9. THIRD JUDICIAL DISTRICT COURT PROJECT--GENERAL FUND.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the third judicial district court for expenditure in fiscal years 2007 through 2011, unless

otherwise provided in Section 1 of this act, for architectural planning, including a needs assessment, for the third judicial district court in Dona Ana county.

## **Chapter 2 Section 10 Laws 2007**

Section 10. FIFTH JUDICIAL DISTRICT COURT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the fifth judicial district court for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. seventy-five thousand dollars (\$75,000) to purchase and install information technology and furniture for the district court in Carlsbad in Eddy county; and

2. one hundred thousand dollars (\$100,000) to purchase equipment, furnishings and information technology for the fifth judicial district court in Lovington in Lea county.

## **Chapter 2 Section 11 Laws 2007**

Section 11. ELEVENTH JUDICIAL DISTRICT COURT PROJECT--GENERAL FUND.--One hundred seventy-five thousand dollars (\$175,000) is appropriated from the general fund to the eleventh judicial district court for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, to purchase and install interactive, audio and visual equipment, including information technology, for the eleventh judicial district in San Juan and McKinley counties.

## **Chapter 2 Section 12 Laws 2007**

Section 12. TWELFTH JUDICIAL DISTRICT COURT PROJECT--GENERAL FUND.--Thirty thousand dollars (\$30,000) is appropriated from the general fund to the twelfth judicial district court for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, to purchase and install chairs in the twelfth judicial district courtrooms in Lincoln and Otero counties.

## **Chapter 2 Section 13 Laws 2007**

Section 13. THIRTEENTH JUDICIAL DISTRICT COURT PROJECT--GENERAL FUND.--Eighteen thousand eight hundred dollars (\$18,800) is appropriated from the general fund to the thirteenth judicial district court for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, to purchase and install information technology, including related equipment and furniture, for the thirteenth judicial district court in Sandoval county.

## **Chapter 2 Section 14 Laws 2007**

Section 14. DNA IDENTIFICATION SYSTEM FUND PROJECT--GENERAL FUND.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the DNA identification system fund for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, to purchase and install information technology and wiring, including related equipment and furniture, in jails and detention centers statewide, contingent on the passage of legislation during the first session of the forty-eighth legislature that establishes requirements for the collection of DNA samples from all persons eighteen years of age or over who are arrested for certain felony offenses and for the submission of DNA samples collected pursuant to medical examinations of sexual assault victims.

## **Chapter 2 Section 15 Laws 2007**

Section 15. ECONOMIC DEVELOPMENT DEPARTMENT PROJECT--GENERAL FUND.--Eighty-five thousand dollars (\$85,000) is appropriated from the general fund to the economic development department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, to acquire land for, plan, design and construct a meat processing plant, including site improvements, for the Ramah chapter of the Navajo Nation in Gallup in McKinley county.

## **Chapter 2 Section 16 Laws 2007**

Section 16. PUBLIC EDUCATION DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the public education department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at Adobe Acres elementary school in the Albuquerque public school district in Bernalillo county;
2. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment and furniture, and to purchase library books for Adobe Acres elementary school in the Albuquerque public school district in Bernalillo county;
3. fifty thousand dollars (\$50,000) to purchase books and furniture for the library at Albuquerque high school in the Albuquerque public school district in Bernalillo county;
4. twenty-eight thousand dollars (\$28,000) to purchase a universal patient simulator for the licensed practical nursing program in the Albuquerque public school district in Bernalillo county;

5. fifty thousand dollars (\$50,000) to remove asbestos and construct, renovate, equip and furnish a building for the Amy Biehl charter high school in the Albuquerque public school district in Bernalillo county;

6. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Apache elementary school in the Albuquerque public school district in Bernalillo county;

7. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment and furniture and library books, for Atrisco elementary school in the Albuquerque public school district in Bernalillo county;

8. twenty thousand dollars (\$20,000) to purchase and install blinds at Bandelier elementary school in the Albuquerque public school district in Bernalillo county;

9. one hundred twenty-five thousand dollars (\$125,000) to purchase and install educational technology, including related equipment and furniture, at Bandelier elementary school in the Albuquerque public school district in Bernalillo county;

10. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, for Chamiza elementary school in the Albuquerque public school district in Bernalillo county;

11. fifty thousand dollars (\$50,000) for playground and athletic field improvements at Chamiza elementary school in the Albuquerque public school district in Bernalillo county;

12. one hundred seventy-five thousand dollars (\$175,000) to purchase and install educational technology, including related equipment and furniture, for Chaparral elementary school in the Albuquerque public school district in Bernalillo county;

13. fifty thousand dollars (\$50,000) for playground and athletic field improvements at Chaparral elementary school in the Albuquerque public school district in Bernalillo county;

14. one hundred thousand dollars (\$100,000) to improve the playgrounds and athletic fields at Cibola high school in the Albuquerque public school district in Bernalillo county;

15. seventy-five thousand dollars (\$75,000) to purchase and install educational technology, including related equipment, furniture, mobile laboratories and a communication system, at Cibola high school in the Albuquerque public school district in Bernalillo county;

16. twenty-five thousand dollars (\$25,000) for improvements to the shooting sports team facilities at Cibola high school in the Albuquerque public school district in Bernalillo county;

17. seventy-five thousand dollars (\$75,000) to plan, design, construct and equip tennis courts at Cibola high school in the Albuquerque public school district in Bernalillo county;

18. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, at Cochiti elementary school in the Albuquerque public school district in Bernalillo county;

19. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at Comanche elementary school in the Albuquerque public school district in Bernalillo county;

20. eighty thousand dollars (\$80,000) to plan, design and construct a play area at Douglas MacArthur elementary school in the Albuquerque public school district in Bernalillo county;

21. seventy-five thousand dollars (\$75,000) to make improvements to the patio at Duranes elementary school in the Albuquerque public school district in Bernalillo county;

22. four hundred thousand dollars (\$400,000) to purchase and install educational technology, including related equipment and furniture, at Eldorado high school in the Albuquerque public school district in Bernalillo county;

23. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment and furniture, at Emerson elementary school in the Albuquerque public school district in Bernalillo county;

24. forty-eight thousand eight hundred dollars (\$48,800) to purchase and install educational technology, including related equipment and furniture, at Eugene Field elementary school in the Albuquerque public school district in Bernalillo county;

25. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Highland high school in the Albuquerque public school district in Bernalillo county;

26. fifty-eight thousand dollars (\$58,000) to purchase trucks for Highland high school in the Albuquerque public school district in Bernalillo county;

27. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related infrastructure, equipment and furniture, to assist students

and staff with meeting state and district testing standards at James Monroe middle school in the Albuquerque public school district in Bernalillo county;

28. fifty thousand dollars (\$50,000) for playground and athletic field improvements at James Monroe middle school in the Albuquerque public school district in Bernalillo county;

29. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Jefferson middle school in the Albuquerque public school district in Bernalillo county;

30. eight thousand dollars (\$8,000) to plan, design, construct and equip multipurpose music rehearsal and recording studios for Jefferson middle school in the Albuquerque public school district in Bernalillo county;

31. one hundred sixty-five thousand dollars (\$165,000) to purchase and install educational technology, including related equipment and furniture, for Jimmy E. Carter middle school in the Albuquerque public school district in Bernalillo county;

32. one hundred thousand dollars (\$100,000) to plan, design, construct and equip improvements, including landscaping, to the playground at Jimmy E. Carter middle school in the Albuquerque public school district in Bernalillo county;

33. seventy-five thousand dollars (\$75,000) to purchase and install educational technology, including related equipment and furniture, for John Adams middle school in the Albuquerque public school district in Bernalillo county;

34. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct a playground, including purchase and installation of equipment and turf, at John Baker elementary school in the Albuquerque public school district in Bernalillo county;

35. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment and furniture, at Kirtland elementary school in the Albuquerque public school district in Bernalillo county;

36. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at Kit Carson elementary school in the Albuquerque public school district in Bernalillo county;

37. seventy-five thousand dollars (\$75,000) for electrical upgrades at La Luz elementary school in the Albuquerque public school district in Bernalillo county;

38. seventy thousand dollars (\$70,000) to purchase and install educational technology, including related equipment and furniture, for Lavaland elementary school in the Albuquerque public school district in Bernalillo county;

39. ninety thousand dollars (\$90,000) to purchase and install shade structures and benches for Los Puentes charter school in the Albuquerque public school district in Bernalillo county;

40. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related infrastructure, equipment and furniture, for Lyndon B. Johnson middle school in the Albuquerque public school district in Bernalillo county;

41. fifty thousand dollars (\$50,000) for playground and athletic field improvements at Lyndon B. Johnson middle school in the Albuquerque public school district in Bernalillo county;

42. fifty thousand dollars (\$50,000) to purchase non-textbook books for the library at Madison middle school in the Albuquerque public school district in Bernalillo county;

43. three hundred fifty thousand dollars (\$350,000) to purchase and install educational technology, including related equipment and furniture, for the Manzano cluster in the Albuquerque public school district in Bernalillo county;

44. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at Marie M. Hughes elementary school in the Albuquerque public school district in Bernalillo county;

45. fifty thousand dollars (\$50,000) for playground and athletic field improvements at Marie M. Hughes elementary school in the Albuquerque public school district in Bernalillo county;

46. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment and furniture, and to purchase library books for Mary Ann Binford elementary school in the Albuquerque public school district in Bernalillo county;

47. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at Navajo elementary school in the Albuquerque public school district in Bernalillo county;

48. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, for Nuestros Valores charter school in the Albuquerque public school district in Bernalillo county;

49. ten thousand dollars (\$10,000) to acquire land, develop the site and purchase and install educational technology, including related equipment and furniture, for Nuestros Valores charter school in the Albuquerque public school district in Bernalillo county;

50. twenty-five thousand dollars (\$25,000) to acquire land for and purchase, install and construct improvements, including parking lot, site and electrical improvements, to Nuestros Valores charter school in the Albuquerque public school district in Bernalillo county;

51. twenty-three thousand eight hundred dollars (\$23,800) to purchase and install educational technology, including related equipment and furniture, at Pajarito elementary school in the Albuquerque public school district in Bernalillo county;

52. fifty thousand dollars (\$50,000) to construct, purchase and install improvements to the physical education and wrestling room at Rio Grande high school in the Albuquerque public school district in Bernalillo county;

53. two hundred thousand dollars (\$200,000) to plan, design, construct, survey, repair and replace the drainage system at Sandia high school in the Albuquerque public school district in Bernalillo county;

54. seventy-five thousand dollars (\$75,000) to plan, design, construct, engineer, equip and furnish renovations to the science rooms at Sandia high school in the Albuquerque public school district in Bernalillo county;

55. three hundred twenty-five thousand dollars (\$325,000) to plan, design, construct and equip a classroom at Sierra Vista elementary school in the Albuquerque public school district in Bernalillo county;

56. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and purchase land for a lecture hall, including classroom and bathroom facilities, at South Valley Academy charter school in the Albuquerque public school district in Bernalillo county;

57. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and install improvements, including security and fire systems and asbestos abatement, at South Valley Academy charter school in the Albuquerque public school district in Bernalillo county;

58. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at Southwest primary learning center in the Albuquerque public school district in Bernalillo county;

59. sixty thousand dollars (\$60,000) to purchase furniture, including staging, mobile storage cabinets, display cases and mobile science centers, at Southwest secondary learning center in the Albuquerque public school district in Bernalillo county;

60. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, for the smart

laboratory at Southwest secondary learning center in the Albuquerque public school district in Bernalillo county;

61. sixty-five thousand dollars (\$65,000) to purchase, install and equip an aviation ground school laboratory for Southwest secondary learning center in the Albuquerque public school district in Bernalillo county;

62. twenty thousand dollars (\$20,000) to purchase and install educational technology, including related equipment, furniture and network upgrades, at Southwest secondary learning center in the Albuquerque public school district in Bernalillo county;

63. fifty-five thousand dollars (\$55,000) to purchase and install fitness equipment for the Southwest secondary learning center in the Albuquerque public school district in Bernalillo county;

64. forty thousand dollars (\$40,000) to purchase and install educational technology, including related equipment and furniture, and to purchase library books at Truman middle school in the Albuquerque public school district in Bernalillo county;

65. thirteen thousand one hundred dollars (\$13,100) to improve the gymnasium sound system at Valley high school in the Albuquerque public school district in Bernalillo county;

66. twenty-two thousand dollars (\$22,000) to design, purchase and install an electronic marquee at Valley high school in the Albuquerque public school district in Bernalillo county;

67. fifty thousand dollars (\$50,000) to plan, design and construct weight stations for the weight room at Valley high school in the Albuquerque public school district in Bernalillo county;

68. fifty thousand dollars (\$50,000) to purchase and install educational technology and audiovisual equipment, including related equipment and furniture, at Ventana Ranch elementary school in the Albuquerque public school district in Bernalillo county;

69. seventy-eight thousand nine hundred dollars (\$78,900) to plan, design, construct, renovate and equip the baseball field at West Mesa high school in the Albuquerque public school district in Bernalillo county;

70. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at West Mesa high school in the Albuquerque public school district in Bernalillo county;

71. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment and furniture, at Whittier elementary school in the Albuquerque public school district in Bernalillo county;

72. twenty thousand dollars (\$20,000) to purchase and install blinds at Wilson middle school in the Albuquerque public school district in Bernalillo county;

73. fifty thousand dollars (\$50,000) to design, purchase, construct and install bleachers at Bobcat stadium at Hagerman municipal school district in Chaves county;

74. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, at Berrendo middle school in the Roswell independent school district in Chaves county;

75. fifty thousand dollars (\$50,000) to purchase and install mobile laptop carts and educational technology, including related equipment and furniture, at Berrendo middle school in the Roswell independent school district in Chaves county;

76. forty-five thousand dollars (\$45,000) to plan, design, construct and install equipment at the playground at Berrendo middle school in the Roswell independent school district in Chaves county;

77. sixty-five thousand dollars (\$65,000) to plan, design, construct and improve a walking track, rubber mulch area, fencing, back stops, cement and ventilation for Del Norte elementary school in the Roswell independent school district in Roswell in Chaves county;

78. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, for El Capitan elementary school in the Roswell independent school district in Chaves county;

79. twenty thousand dollars (\$20,000) to purchase a baseball tractor and other equipment for the Goddard high school baseball program in the Roswell independent school district in Chaves county;

80. ten thousand dollars (\$10,000) to purchase and install equipment and technology for the baseball program at Goddard high school in the Roswell independent school district in Chaves county;

81. sixty thousand dollars (\$60,000) to plan, design and construct practice fields for sports and band programs at Goddard high school in the Roswell independent school district in Chaves county;

82. twenty-five thousand dollars (\$25,000) to purchase equipment and uniforms for the football program at Mesa middle school in the Roswell independent school district in Chaves county;

83. thirty-eight thousand dollars (\$38,000) to purchase and install educational technology, including related equipment and furniture, at Military Heights elementary school in the Roswell independent school district in Chaves county;

84. forty-five thousand dollars (\$45,000) to purchase and install educational technology, including related equipment and furniture, for the profoundly gifted program at Military Heights elementary school in the Roswell independent school district in Chaves county;

85. seventeen thousand dollars (\$17,000) to purchase and equip educational technology, including related equipment and furniture, at Monterrey elementary school in the Roswell independent school district in Chaves county;

86. forty thousand dollars (\$40,000) to purchase and install educational technology, including related equipment and furniture, at Roswell high school fine arts department in the Roswell independent school district in Chaves county;

87. twenty-five thousand dollars (\$25,000) to purchase and install video equipment for the Roswell high school football program in the Roswell independent school district in Chaves county;

88. two hundred fifty-five thousand dollars (\$255,000) to plan, design and construct security fencing at Roswell high school in the Roswell independent school district in Chaves county;

89. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, for the Roswell independent school district in Chaves county;

90. twenty-five thousand dollars (\$25,000) to purchase equipment for challenge courses at San Rafael elementary school in the Grants-Cibola county school district in Cibola county;

91. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to the lighting system in the gymnasium in the Springer municipal school district in Colfax county;

92. two thousand five hundred dollars (\$2,500) to plan, design and construct a cooking hood suppression system for a cafeteria for the Melrose public school district in Curry county;

93. fifty thousand dollars (\$50,000) to purchase and install bleachers for the gymnasium in the Melrose public school district in Curry county;

94. one hundred thousand dollars (\$100,000) to purchase and install playground equipment and other structures for Anthony elementary school in the Gadsden independent school district in Dona Ana county;

95. twenty-six thousand five hundred dollars (\$26,500) to purchase band equipment and purchase and install educational technology, including related equipment and furniture, for Santa Teresa high school in the Gadsden independent school district in Dona Ana county;

96. fifty-five thousand dollars (\$55,000) to purchase and install playground equipment at Conlee elementary school in the Las Cruces public school district in Dona Ana county;

97. seventy-five thousand dollars (\$75,000) to purchase and install playground equipment at Hermosa Heights elementary school in the Las Cruces public school district in Dona Ana county;

98. sixty-four thousand dollars (\$64,000) to plan, design and renovate the auxiliary gymnasium for Las Cruces high school in the Las Cruces public school district in Dona Ana county;

99. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment and furniture, for the mass media and broadcasting program at Las Cruces high school in the Las Cruces public school district in Dona Ana county;

100. twenty-five thousand dollars (\$25,000) to purchase athletic equipment for the soccer programs at Las Cruces high school in the Las Cruces public school district in Dona Ana county;

101. fifty thousand dollars (\$50,000) to purchase equipment for the Mayfield high school orchestra in the Las Cruces public school district in Dona Ana county;

102. eighty-three thousand nine hundred dollars (\$83,900) to plan, design and renovate restrooms at Zia middle school in the Las Cruces public school district in Dona Ana county;

103. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the parking lot at the Mack Chase athletic complex in the Artesia public school district in Eddy county;

104. twenty thousand dollars (\$20,000) to purchase and install playground equipment for Yeso elementary school in the Artesia public school district in Eddy county;

105. one hundred twenty-five thousand dollars (\$125,000) to purchase and install equipment and furniture for the Carlsbad high school band and choir program in the Carlsbad municipal school district in Eddy county;

106. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct improvements to the tennis courts for the Cobre consolidated school district in Grant county;

107. one hundred fifty thousand dollars (\$150,000) to remodel, equip and furnish the Eunice high school science laboratory in the Eunice public school district in Lea county;

108. fifty-seven thousand seven hundred dollars (\$57,700) to replace the roof at Jal high school in the Jal public school district in Lea county;

109. fifty-five thousand dollars (\$55,000) to purchase and install equipment and educational technology, including related equipment and furniture, in the Lovington municipal school district in Lea county;

110. one hundred seventy-five thousand dollars (\$175,000) to purchase, furnish and equip improvements for the baseball program and facilities at Capitan high school in the Capitan municipal school district in Lincoln county;

111. fifty-five thousand dollars (\$55,000) to plan, design, construct and equip improvements to the family and consumer science laboratory for Capitan middle school in the Capitan municipal school district in Lincoln county;

112. thirty thousand dollars (\$30,000) to purchase and install a marquee sign for the Mora independent school district in Mora county;

113. one hundred twenty thousand dollars (\$120,000) to conduct site work and surfacing, and purchase and install playground equipment and shade structures, in the Alamogordo public school district in Otero county;

114. one hundred thousand dollars (\$100,000) to plan, design and construct the athletic facilities project in the Cloudcroft municipal school district in Otero county;

115. two hundred thousand dollars (\$200,000) to purchase and install educational technology related to the governor's laptop initiative, including related equipment and furniture, for the Tularosa municipal school district in Otero county;

116. two hundred thousand dollars (\$200,000) to plan, design, purchase and install artificial turf for the football fields in the Tularosa municipal school district in Otero county;

117. twenty-five thousand dollars (\$25,000) to purchase equipment, instruments and an audio and recording system for the mariachi program in the Espanola public school district in Rio Arriba county;

118. fifty-five thousand dollars (\$55,000) to plan, design, construct, equip and furnish improvements for the athletic department at Espanola Valley high school in the Espanola public school district in Rio Arriba county;

119. one hundred fifty thousand dollars (\$150,000) to purchase, install, repair and replace the roof on the high school gymnasium in the Jemez Mountain public school district in Rio Arriba county;

120. forty-five thousand dollars (\$45,000) to refurbish the gymnasium bleachers in the Floyd municipal school district in Roosevelt county;

121. one hundred five thousand dollars (\$105,000) to plan, design and construct improvements to, including renovations to meet the Americans with Disabilities Act of 1990, the sports complex in the Aztec municipal school district in San Juan county;

122. one hundred thousand dollars (\$100,000) to replace the roof for the auditorium at Bloomfield high school in the Bloomfield school district in San Juan county;

123. three hundred seventy-three thousand nine hundred dollars (\$373,900) to build, expand and equip a short club range and putting greens for the Central consolidated school district in San Juan county;

124. fifteen thousand dollars (\$15,000) to equip and furnish schools and to purchase and install educational technology, including related equipment and furniture, for the west Las Vegas public school district in San Miguel county;

125. eighty thousand dollars (\$80,000) to purchase and install scoreboards for the athletic program in the Las Vegas city public school district in San Miguel county;

126. ten thousand dollars (\$10,000) to purchase and install educational technology, including related equipment and furniture, for the Las Vegas city public school district in San Miguel county;

127. twenty-five thousand dollars (\$25,000) to purchase, furnish and install library equipment and materials for the head start program in the west Las Vegas school district in San Miguel county;

128. fifteen thousand dollars (\$15,000) to purchase band equipment for the west Las Vegas public school district in San Miguel county;

129. five thousand dollars (\$5,000) to purchase band uniforms for the west Las Vegas public school district in San Miguel county;

130. ten thousand dollars (\$10,000) to purchase and install a paper binding machine for the west Las Vegas public school district in San Miguel county;

131. twelve thousand dollars (\$12,000) to purchase equipment for the custodial department in the west Las Vegas public school district in San Miguel county;

132. twenty-five thousand dollars (\$25,000) to purchase and install a message board in the west Las Vegas public school district in San Miguel county;

133. twenty thousand dollars (\$20,000) to purchase and install two-way radios in the west Las Vegas public school district in San Miguel county;

134. twenty-five thousand dollars (\$25,000) to purchase and equip a service truck and other vehicles for the west Las Vegas public school district in San Miguel county;

135. eighty thousand dollars (\$80,000) to plan, design and construct soccer fields for the west Las Vegas public school district in San Miguel county;

136. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment, furnishings and wiring, at Corrales elementary school in the Albuquerque public school district in Sandoval county;

137. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, in the Bernalillo public school district in Sandoval county;

138. forty-five thousand dollars (\$45,000) to purchase and install educational technology, including related equipment and furniture, at the San Diego Riverside charter school in the Jemez Valley public school district in Sandoval county;

139. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, for Martin Luther King, Jr. elementary school in the Rio Rancho public school district in Sandoval county;

140. fifty thousand dollars (\$50,000) for playground and athletic field improvements and equipment at Martin Luther King, Jr. elementary school in the Rio Rancho public school district in Sandoval county;

141. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, for Puesta del Sol elementary school in the Rio Rancho public school district in Sandoval county;

142. twenty-five thousand dollars (\$25,000) to equip the band at Rio Rancho high school in the Rio Rancho public school district in Sandoval county;

143. twenty-five thousand dollars (\$25,000) to purchase pole vault mats for Rio Rancho high school in the Rio Rancho public school district in Sandoval county;

144. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related network infrastructure, equipment and furniture, for the academy for technology and the classics in the Santa Fe public school district in Santa Fe county;

145. seventy thousand dollars (\$70,000) to plan, design and construct replacement of the roof at Atalaya elementary school in the Santa Fe public school district in Santa Fe county;

146. twenty-five thousand dollars (\$25,000) to plan, design and construct a synthetic turf field inside the asphalt track at Eldorado elementary school in the Santa Fe public school district in Santa Fe county;

147. seventy-five thousand dollars (\$75,000) to replace the roof at Kaune elementary school in the Santa Fe public school district in Santa Fe county;

148. fifty thousand one hundred dollars (\$50,100) to replace the roof at Larragoite elementary school in the Santa Fe public school district in Santa Fe county;

149. seventy-five thousand dollars (\$75,000) to construct, equip and install an all-weather track facility in the Magdalena municipal school district in Socorro county;

150. twenty-five thousand dollars (\$25,000) to purchase and install televisions and VCR-DVD players for educational programming in rural school buses statewide, to be used on school bus routes that are at least thirty miles one way;

151. fifty thousand dollars (\$50,000) to purchase and install a video surveillance system in the Penasco independent school district in Taos county;

152. eighty thousand dollars (\$80,000) to renovate the bleachers, including handicapped-accessible improvements, in the gymnasium at Mountainair high school in the Mountainair public school district in Tarrant county;

153. one hundred thousand dollars (\$100,000) to purchase, install and construct bleachers at Des Moines high school in the Des Moines municipal school district in Union county;

154. seventy-five thousand dollars (\$75,000) to replace, purchase and install playground equipment at Gil Sanchez and Dennis Chavez elementary schools in the Belen consolidated school district in Valencia county;

155. five hundred twenty-eight thousand dollars (\$528,000) to purchase and install artificial turf on the football field at Belen high school in the Belen consolidated school district in Valencia county;

156. one hundred nineteen thousand dollars (\$119,000) to plan, design, construct and equip the playground at Dennis Chavez elementary school in the Belen consolidated school district in Valencia county;

157. fifty thousand dollars (\$50,000) to replace playground equipment at Rio Grande elementary school and

pre-kindergarten facilities in the Belen consolidated school district in Valencia county;

158. thirty-five thousand dollars (\$35,000) to furnish and purchase library books for Katherine Gallegos elementary school in Los Lunas in Valencia county;

159. forty thousand dollars (\$40,000) to improve the running track at Manzano Vista middle school in the Los Lunas public school district in Valencia county;

160. forty-eight thousand eight hundred dollars (\$48,800) to remodel, retrofit and relocate portable buildings at Peralta elementary school in the Los Lunas public school district in Valencia county; and

161. thirty-five thousand one hundred dollars (\$35,100) to purchase library books for Valencia high school in the Los Lunas public school district in Valencia county.

## **Chapter 2 Section 17 Laws 2007**

Section 17. EDUCATIONAL TECHNOLOGY DEFICIENCY CORRECTION FUND PROJECT--GENERAL FUND.--Four million three hundred twenty-five thousand dollars (\$4,325,000) is appropriated from the general fund to the educational technology deficiency correction fund for expenditure in fiscal year 2007 and subsequent fiscal years for the purpose of making allocations to correct serious deficiencies in educational technology infrastructure pursuant to

Section 22-15A-11 NMSA 1978. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

## **Chapter 2 Section 18 Laws 2007**

Section 18. ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECT--GENERAL FUND.--Two million fourteen thousand dollars (\$2,014,000) is appropriated from the general fund to the energy, minerals and natural resources department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for land, wildlife and clean energy projects, conservation easements and fee land acquisitions for working farms or ranches, forests or watersheds, natural areas, outdoor recreation and trails and wildlife habitat and to fund land and habitat restoration and management and other clean energy projects statewide.

## **Chapter 2 Section 19 Laws 2007**

Section 19. STATE PARKS DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the state parks division of the energy, minerals and natural resources department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. five thousand dollars (\$5,000) to plan, design, construct and equip an education facility at Rio Grande nature center state park in Albuquerque in Bernalillo county;
2. seventy-five thousand dollars (\$75,000) to plan, design and construct a visitor center at Sugarite Canyon state park in Colfax county; and
3. fifty thousand dollars (\$50,000) to acquire land in Seldon canyon for the Rio Grande trail in Dona Ana county.

## **Chapter 2 Section 20 Laws 2007**

Section 20. OFFICE OF THE STATE ENGINEER PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the office of the state engineer for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. two hundred fifty thousand one hundred dollars (\$250,100) to plan, design, construct and install armor for flood control in the Placitas arroyo in Dona Ana county;
2. fifty-one thousand nine hundred dollars (\$51,900) to purchase water rights for wildlife and habitat protection in Seldon canyon in Dona Ana county;

3. forty-eight thousand dollars (\$48,000) to create a flood control map and plan for upper and lower Nogal canyon in Otero county;

4. twenty-five thousand dollars (\$25,000) to purchase water rights for Pecos in San Miguel county;

5. one million dollars (\$1,000,000) to provide telemetric water metering for the Elephant Butte irrigation district in Sierra county;

6. one million dollars (\$1,000,000) to repair and rehabilitate acequia water storage projects statewide; and

7. ten thousand dollars (\$10,000) to plan, design and construct a flood diversion system, including a channel, spillway and flood retention dam, in Estancia in Torrance county.

## **Chapter 2 Section 21 Laws 2007**

Section 21. DEPARTMENT OF ENVIRONMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the department of environment for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. thirty-five thousand dollars (\$35,000) for an engineering study of the wastewater collection system in Angel Fire in Colfax county;

2. one hundred thousand dollars (\$100,000) to plan, design and construct water and wastewater improvements in Clovis in Curry county;

3. two hundred seventy-five thousand dollars (\$275,000) to dig and construct gas lines in Fort Sumner in De Baca county;

4. fifty thousand dollars (\$50,000) to plan, design and construct a water reclamation facility in east mesa in Las Cruces in Dona Ana county;

5. fifty thousand dollars (\$50,000) to plan, design and construct a wastewater system, including

right-of-way acquisition, in Chaparral in Dona Ana county;

6. one hundred forty-three thousand nine hundred dollars (\$143,900) for remediation of the Griggs and Walnut water plume superfund site in Las Cruces in Dona Ana county;

7. sixty thousand dollars (\$60,000) to plan, design, construct and equip improvements to the water system in Hope in Eddy county;

8. thirty-five thousand dollars (\$35,000) to purchase equipment for the Grant county water and wastewater alliance in Grant county;
9. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip a water system, including water lines, booster stations, meters, fire hydrants and other related equipment, for the Hollywood Ranch domestic water users association in Guadalupe county;
10. four hundred fifty thousand dollars (\$450,000) to plan, design and construct a water line extension with fire hydrants, including purchase and installation of equipment, along Camp May road in Los Alamos county;
11. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a water and wastewater system, reuse facility, treatment plant and distribution system for the White Cliffs mutual domestic water users association in McKinley county;
12. five million dollars (\$5,000,000) to plan, design and construct a pipeline on the eastern portion of the Navajo Nation in McKinley and San Juan counties;
13. fifty thousand dollars (\$50,000) to purchase heavy equipment for the northwest New Mexico solid waste authority in McKinley and Cibola counties;
14. one million dollars (\$1,000,000) to plan, design and construct the development of salt basin water resources in southern New Mexico;
15. one million dollars (\$1,000,000) to plan, design, construct and acquire rights of way, including technical and engineering studies, for the Ute pipeline sustainable water supply for the eastern New Mexico rural water system;
16. fifty thousand one hundred dollars (\$50,100) to plan, design and construct water and wastewater system improvements, including looping the system, in Alamogordo in Otero county;
17. fifty thousand dollars (\$50,000) to plan, design, construct, equip and install a well and pump house, including integration into the existing water facility, for the Chamita mutual domestic water consumers and mutual sewage works association in Chamita in Rio Arriba county;
18. thirty thousand dollars (\$30,000) to improve the water system, including purchasing and installing security fencing and related equipment, for the Ojo Sarco mutual domestic water consumers and mutual sewage works association in Ojo Sarco in Rio Arriba county;

19. sixty-eight thousand eight hundred dollars (\$68,800) to plan, design and construct a solid waste transfer station to serve the residents of the Chaco plant, Navajo agricultural products industry and Huerfano chapter areas of San Juan county;

20. fifty thousand dollars (\$50,000) to plan, design, construct and equip an arsenic treatment facility in Bernalillo in Sandoval county;

21. fifty thousand dollars (\$50,000) to plan, design and construct a north central economic development area water system in Rio Rancho in Sandoval county;

22. fifty thousand dollars (\$50,000) to acquire land for, plan, design and construct a water system for the Amalia and Ventero areas of Taos county;

23. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip a well house, including pump and controls, for Las Trampas domestic water consumers and mutual sewer works association in Las Trampas in Taos county; and

24. eighty thousand dollars (\$80,000) to plan, design and construct improvements to the wastewater system in Willard in Torrance county.

## **Chapter 2 Section 22 Laws 2007**

Section 22. STATE FAIR COMMISSION PROJECT--GENERAL FUND.--Ninety-five thousand one hundred dollars (\$95,100) is appropriated from the general fund to the state fair commission for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, to acquire exhibits and display equipment for the African American performing arts center and exhibit hall at the state fairgrounds in Albuquerque in Bernalillo county.

## **Chapter 2 Section 23 Laws 2007**

Section 23. GOVERNOR'S COMMISSION ON DISABILITY PROJECT--GENERAL FUND.--Forty-eight thousand eight hundred dollars (\$48,800) is appropriated from the general fund to the governor's commission on disability for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, to purchase and equip vehicles, including adaptive driving equipment, for the drivers' rehabilitation program for the disabled in Albuquerque in Bernalillo county.

## **Chapter 2 Section 24 Laws 2007**

Section 24. INDIAN AFFAIRS DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the Indian affairs department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. two million dollars (\$2,000,000) to renovate, plan, design, construct, equip and furnish the all Indian Pueblo council building in Albuquerque in Bernalillo county;
2. twenty-five thousand dollars (\$25,000) to plan, design and replace the fire alarm system at the Indian pueblo cultural center in Albuquerque in Bernalillo county;
3. twenty thousand dollars (\$20,000) to repair and renovate the greenhouses at the Pine Hill school farm in the Ramah chapter of the Navajo Nation in Cibola county;
4. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip a kitchen for the Pine Hill school dormitory in the Ramah chapter of the Navajo Nation in Cibola county;
5. ten thousand dollars (\$10,000) to renovate and equip the greenhouses at the Ramah Navajo school in the Ramah chapter of the Navajo Nation in Cibola county;
6. fifty thousand dollars (\$50,000) to plan, design and construct bathroom additions in the Becenti chapter of the Navajo Nation in McKinley county;
7. forty thousand dollars (\$40,000) to design and construct bathroom additions and purchase and install bathroom fixtures that comply with the Americans with Disabilities Act of 1990 in the Bread Springs chapter of the Navajo Nation in McKinley county;
8. fifty thousand dollars (\$50,000) to plan, design and construct a multipurpose building for the Standing Rock chapter of the Navajo Nation in McKinley county;
9. twenty thousand dollars (\$20,000) to conduct a land survey and archaeological clearance survey for the Navajo Nation department of veterans' affairs to determine feasibility for veterans' housing assistance home construction;
10. seventy-five thousand dollars (\$75,000) to landscape and improve, including irrigation and grass development, the little league fields at the Pueblo of Isleta in Bernalillo, Valencia and Torraine counties;
11. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a chapter house in the Upper Fruitland chapter of the Navajo Nation in San Juan county;

12. fifty thousand dollars (\$50,000) to purchase, equip and install an emergency backup power system and fire truck equipment at the Pueblo of Cochiti in Sandoval county;

13. eighty thousand dollars (\$80,000) to purchase and equip a head start bus for the Pueblo of Jemez in Sandoval county;

14. one hundred thousand dollars (\$100,000) to plan, design and construct an emergency medical services and fire station facility in the Pueblo of Santo Domingo in Sandoval county;

15. forty-eight thousand eight hundred dollars (\$48,800) to plan, design and construct a transfer station in the Torreon-Star Lake chapter of the Navajo Nation in Sandoval county; and

16. eighty-three thousand eight hundred dollars (\$83,800) to plan, design, construct, equip and furnish a multipurpose conference and educational center for the institute of American Indian arts in Santa Fe county.

## **Chapter 2 Section 25 Laws 2007**

Section 25. INTERSTATE STREAM COMMISSION PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the interstate stream commission for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements, including road culverts and irrigation turnouts, for acequia de los Padillas in the south valley of Bernalillo county;

2. forty-eight thousand dollars (\$48,000) to construct and equip pump houses, including replacement of gas pumps with electric pumps, for the acequia madre de Carnuel in Carnuel in Bernalillo county;

3. twenty thousand dollars (\$20,000) to plan, design and construct improvements to the piping and headgates on the Giddings ditch in Guadalupe county;

4. twenty-eight thousand dollars (\$28,000) to repair and construct the Labadie ditch in Guadalupe county;

5. ten thousand dollars (\$10,000) to plan, design and construct improvements, including brush and tree removal, to the acequia de las Colonias in Mora county;

6. ten thousand dollars (\$10,000) to rebuild the diversion structures for the acequia de la Sierra de Holman in Mora county;

7. twenty-five thousand dollars (\$25,000) to plan, design and construct diversion structures and headgates for Las Trampas acequia association in Taos and Rio Arriba counties;

8. sixty-six thousand dollars (\$66,000) to improve the Abeyta-Trujillo acequia, including headgates, diversion dam and purchasing and installing a ditch lining system, in Rio Arriba county;

9. fifteen thousand dollars (\$15,000) to plan, design and construct improvements to the acequia de Alcalde in Rio Arriba county;

10. twenty thousand dollars (\$20,000) to plan, design and construct improvements to the headgate for the acequia de Chamita in Rio Arriba county;

11. fifteen thousand dollars (\$15,000) to plan, design and construct improvements to the acequia de la Otra Vanda in Ancones in Rio Arriba county;

12. fifty thousand dollars (\$50,000) to plan, design and construct improvements to La Mesilla community ditch in La Mesilla in Rio Arriba county;

13. twenty thousand dollars (\$20,000) to purchase and install water conservation technology and equipment to protect against rodent habitats, evaporation and erosion for El Pinabetal acequia in Canjilon in Rio Arriba county;

14. twenty thousand dollars (\$20,000) to make repairs and improvements to the acequia del Rincon in Dixon in Rio Arriba county;

15. twenty-three thousand eight hundred dollars (\$23,800) to plan, design and construct improvements to the acequia de la Posecion in Rio Arriba county;

16. ten thousand dollars (\$10,000) to plan, design and improve the acequia madre, including purchasing and installing water gates and culverts, in Truchas in Rio Arriba county;

17. thirty-five thousand dollars (\$35,000) to plan, design and construct renovations to the community irrigation pipeline for El Alcantar community ditch association in Canoncito de Manuelitas in San Miguel county;

18. twenty-five thousand dollars (\$25,000) to construct improvements, including a diversion dam, inlets and gates, to the acequia de la Concepcion in San Miguel county;

19. thirty thousand dollars (\$30,000) to plan, design and construct improvements, including installation of culverts, in Los Trigos, El Pueblito and El Ranchito in San Miguel county;

20. ten thousand dollars (\$10,000) to plan, design, construct and equip improvements to the acequia del Potrero in Chimayo in Santa Fe county;

21. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements, including installation of pipeline, to the acequia Jarosa in Taos county;

22. twenty-three thousand eight hundred dollars (\$23,800) to plan, design and construct improvements, including the installation of piping, to the Cuchilla ditch for the Des Montes acequia association in Taos county;

23. twenty-three thousand dollars (\$23,000) to plan, design and construct improvements, including clearing banks and installing headgates, to Los Lovatos acequia in Taos county; and

24. twenty-five thousand dollars (\$25,000) to design and construct improvements to the acequia, including rebuilding banks and removing brush, for the Cabresto lake community ditch association and the Llano ditch association in Questa in Taos county.

## **Chapter 2 Section 26 Laws 2007**

Section 26. LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the local government division of the department of finance and administration for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. one hundred fifty-five thousand dollars (\$155,000) to purchase and install security system equipment and redesign and construct an entrance to the court facilities in the second judicial district court in Bernalillo county;

2. three hundred eight thousand six hundred dollars (\$308,600) for equipment and improvements to the site, facility and field, including improvements to comply with the Americans with Disabilities Act of 1990 and improvements to the concession stand and office facility, for the Atrisco valley little league in Bernalillo county;

3. one hundred thirty-two thousand seven hundred dollars (\$132,700) to plan, design, construct and renovate the facility used by the Altamont little league, including improvements to comply with the requirements of the Americans with Disabilities Act of 1990, in Bernalillo county;

4. fifty thousand dollars (\$50,000) for a feasibility study on reuse of the Lovelace-Gibson property in Bernalillo county;

5. five million dollars (\$5,000,000) to plan, design, construct, renovate and equip a state multipurpose equestrian facility on open space property in Bernalillo county;

6. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip improvements to Nick Vitale park in Adobe Acres in Bernalillo county;

7. seventy-five thousand dollars (\$75,000) to plan, design, construct and equip improvements, including phone and internet lines, for the East Mountain little league in San Antonito in Bernalillo county;

8. fifty thousand dollars (\$50,000) to build a monument to Edmund G. Ross in Bernalillo county;

9. seventy-five thousand dollars (\$75,000) to design and construct a batting cage and storage facility for the Lobo little league in Bernalillo county;

10. fifty thousand dollars (\$50,000) for improvements to Paradise Hills little league fields in Bernalillo county;

11. one hundred thousand dollars (\$100,000) to construct and equip a multipurpose child abuse prevention and treatment facility in the south valley of Bernalillo county;

12. fifty thousand dollars (\$50,000) to plan, design, construct and equip baseball fields at the Vista Grande community center, including installing field lighting, in Bernalillo county;

13. one hundred forty-eight thousand eight hundred dollars (\$148,800) to plan, design and construct fencing for the Alamosa multiservice center in Albuquerque in Bernalillo county;

14. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to Alamosa park in Albuquerque in Bernalillo county;

15. forty-five thousand dollars (\$45,000) to plan, design, construct and renovate a building for use by the amigos y amigas program in Albuquerque in Bernalillo county;

16. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish the Amistad youth crisis shelter in Albuquerque in Bernalillo county;

17. fifty thousand dollars (\$50,000) to plan, design and construct improvements to and expansion of the Arroyo del Oso tennis complex in Albuquerque in Bernalillo county;

18. thirty-two thousand seven hundred dollars (\$32,700) to plan, design and construct an open space wildlife preserve at Balloon Fiesta park in Albuquerque in Bernalillo county;

19. thirty-five thousand dollars (\$35,000) to purchase books for the Cherry Hills library in Albuquerque in Bernalillo county;

20. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, equip, furnish, purchase and install artificial turf for baseball and softball fields for the Eastdale little league in Albuquerque in Bernalillo county;

21. forty-three thousand nine hundred dollars (\$43,900) to design, construct and equip a family advocacy center in Albuquerque in Bernalillo county;

22. one hundred thousand dollars (\$100,000) to purchase land for a park in the Four Hills area of Albuquerque in Bernalillo county;

23. seventy-five thousand dollars (\$75,000) for playground equipment and upgrades at Jade park in Albuquerque in Bernalillo county;

24. fifty thousand dollars (\$50,000) to plan, design, construct and equip additional play and recreation areas at Laurelwood park in Albuquerque in Bernalillo county;

25. thirty-five thousand dollars (\$35,000) to plan, design and construct a linear park on Tramway boulevard in Albuquerque in Bernalillo county;

26. one hundred thousand one hundred dollars (\$100,100) to renovate, furnish and equip Los Griegos library, including landscaping, in Albuquerque in Bernalillo county;

27. two hundred twenty-five thousand dollars (\$225,000) to design and construct a community center at north Domingo Baca park in Albuquerque in Bernalillo county;

28. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the field, including purchase and installation of equipment and furniture, for the Petroglyph little league at Mariposa Basin park in Albuquerque in Bernalillo county;

29. fifty thousand dollars (\$50,000) to purchase automated license plate readers for the Albuquerque police department in Albuquerque in Bernalillo county;

30. one hundred five thousand dollars (\$105,000) to plan, design and construct parks and trails in the Sawmill community land trust in the Arbolera de Vida area in Albuquerque in Bernalillo county;

31. fifty thousand dollars (\$50,000) to design, construct, equip and furnish improvements to the Singing Arrow community center in Albuquerque in Bernalillo county;

32. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements to Snowheights park in Albuquerque in Bernalillo county;

33. one hundred twenty-three thousand nine hundred dollars (\$123,900) to renovate the Tom Bolack forest and dog park in Albuquerque in Bernalillo county;

34. one hundred thousand dollars (\$100,000) to plan, design and construct renovations to the Valley pool in Albuquerque in Bernalillo county;

35. one hundred seventy-five thousand one hundred dollars (\$175,100) to plan, design and construct improvements to the Westgate little league field, including turf and concession stands, in Albuquerque in Bernalillo county;

36. forty-five thousand dollars (\$45,000) to equip and furnish the workforce training program in Albuquerque in Bernalillo county;

37. ten thousand dollars (\$10,000) to plan, design and construct benches, shade structures and a storage shed, including landscaping, for the Albuquerque rose garden at the Wyoming library in Albuquerque in Bernalillo county;

38. two hundred thousand dollars (\$200,000) to plan, design and construct an entrance road and parking area for the national atomic museum in Albuquerque in Bernalillo county;

39. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to the Altamont little league facility and fields in Albuquerque in Bernalillo county;

40. one hundred thousand dollars (\$100,000) to plan, design and construct improvements and facilities at Avalon park in Albuquerque in Bernalillo county;

41. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including remodeling living units, communication systems and perimeter fence, at the juvenile detention center in Albuquerque in Bernalillo county;

42. twenty thousand dollars (\$20,000) to plan, design and construct a gazebo at Hunter's Run park in Albuquerque in Bernalillo county;

43. forty thousand dollars (\$40,000) to design, construct and equip a multipurpose facility located on the grounds of Northeast Heights elementary school in Bernalillo county;

44. fifteen thousand dollars (\$15,000) to replace the roof at the north valley public library in Albuquerque in Bernalillo county;

45. one hundred thirty-five thousand dollars (\$135,000) to design, renovate, equip, landscape, irrigate and improve the site at the Novella park and play area in Albuquerque in Bernalillo county;

46. fifty thousand dollars (\$50,000) to purchase and install exercise equipment, a security system and information technology, including related equipment and furniture, at the Pat Hurley community center in Albuquerque in Bernalillo county;

47. one hundred forty thousand dollars (\$140,000) to plan, design, construct, equip and furnish improvements to fields and facilities for Roadrunner little league in Albuquerque in Bernalillo county;

48. twenty-five thousand dollars (\$25,000) for reforestation, landscaping and streetscape improvements in the Silver Hill neighborhood in Albuquerque in Bernalillo county;

49. ninety-two thousand dollars (\$92,000) to plan, design and construct a strip park on Tramway boulevard between Lomas boulevard and Copper avenue in Albuquerque in Bernalillo county;

50. eighty thousand dollars (\$80,000) to purchase vehicles for the West Mesa community center in Albuquerque in Bernalillo county;

51. fifty thousand dollars (\$50,000) to plan, design and construct improvements to fields and facilities, including installing astroturf, at the West Mesa little league field in Albuquerque in Bernalillo county;

52. seventy-five thousand dollars (\$75,000) to purchase and install exercise equipment and make improvements to Workers' park in Albuquerque in Bernalillo county;

53. fifteen thousand dollars (\$15,000) to design, construct, equip and furnish a multipurpose room at North Star elementary school in Albuquerque in Bernalillo county;

54. fifty-five thousand dollars (\$55,000) to purchase park maintenance equipment for Los Ranchos de Albuquerque in Bernalillo county;

55. twenty-one thousand five hundred dollars (\$21,500) to purchase and equip a tractor and disc for the rodeo arena in Catron county;

56. eight thousand five hundred dollars (\$8,500) to furnish and equip the Glenwood community health center in Glenwood in Catron county;

57. fifty thousand dollars (\$50,000) to improve handicap accessibility and to purchase equipment for Sertoma park in Chaves county;

58. one hundred thousand dollars (\$100,000) to plan, design and construct a memorial, including a statue, to honor the 1956 little league world champions in Chaves county;

59. thirty-five thousand dollars (\$35,000) to plan, design, construct and equip an occupational therapy room at reins for life in Chaves county;

60. ninety thousand dollars (\$90,000) to purchase and equip a street sweeper for Dexter in Chaves county;

61. seventy-five thousand dollars (\$75,000) to purchase and equip a backhoe loader for Hagerman in Chaves county;

62. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to the baseball field in Lake Arthur in Chaves county;

63. seventy-five thousand dollars (\$75,000) to purchase a dump truck, a trailer, a tractor and accessories to maintain roads and a cemetery in Lake Arthur in Chaves county;

64. sixty thousand dollars (\$60,000) to plan, design and construct a police station and a courthouse, including a parking lot, in Lake Arthur in Chaves county;

65. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including purchase and installation of bleachers and lights, for the east side little league, or for the Lions Hondo little league if the little league program is moved to Lions Hondo, in Roswell in Chaves county;

66. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip the Cielo Grande recreation complex, including an outdoor amphitheater, water and sewer improvements, parking and fencing, in Roswell in Chaves county;

67. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the Cielo Grande recreation area in Roswell in Chaves county;

68. twenty-five thousand dollars (\$25,000) to design, construct and install the "Tree of Knowledge" community-based public art project to commemorate the Roswell public library centennial in Chaves county;

69. fifty-five thousand dollars (\$55,000) to purchase and equip a handicapped-accessible van in Roswell in Chaves county;

70. seventy-eight thousand dollars (\$78,000) to plan, design and construct a senior field at the Noon Optimist baseball complex in Roswell in Chaves county;

71. twenty-five thousand dollars (\$25,000) to purchase equipment for the summer parks and recreation program in Roswell in Chaves county;

72. eight thousand eight hundred dollars (\$8,800) to purchase and equip a van for delivering voting machines for the county clerk's office in Cibola county;

73. eighty thousand dollars (\$80,000) to plan, design and construct an expansion to the county hospital facility in Cibola county;

74. fifty thousand dollars (\$50,000) to purchase and equip road maintenance equipment for Cibola county;

75. fifty thousand dollars (\$50,000) to purchase vehicles and equipment for the county sheriff and jail departments in Cibola county;

76. ten thousand dollars (\$10,000) to purchase vehicles to transport voting machines in Cibola county;

77. seventy-five thousand dollars (\$75,000) to purchase a backhoe and equipment for Bluewater Acres in Cibola county;

78. fifty thousand dollars (\$50,000) to purchase equipment for use by Cibola general hospital in Grants in Cibola county;

79. ninety thousand dollars (\$90,000) to plan, design and construct an animal shelter in Grants in Cibola county;

80. fifteen thousand one hundred dollars (\$15,100) to furnish and equip the Cibola regional communications center in Cibola county;

81. forty thousand dollars (\$40,000) to renovate and replace the roof on the former senior center office building in Grants in Cibola county;

82. ten thousand dollars (\$10,000) to purchase and install information technology, including related furniture and equipment, for the police department in Grants in Cibola county;

83. thirty thousand dollars (\$30,000) to purchase and equip vehicles for the police department in Grants in Cibola county;

84. fifty thousand dollars (\$50,000) to plan, design and construct interior and exterior renovations, including improvements to parking facilities, to the Cibola arts building in Grants in Cibola county;

85. twenty-three thousand nine hundred dollars (\$23,900) to purchase equipment, furniture and vehicles for the city-county dispatch center in Grants in Cibola county;

86. forty thousand dollars (\$40,000) to install a sprinkler system at the soccer fields in Milan in Cibola county;

87. fifty thousand dollars (\$50,000) to purchase and equip road graders for Cimarron in Colfax county;

88. fifty thousand dollars (\$50,000) to plan, design, construct, equip, furnish and acquire land for a village park in Eagle Nest in Colfax county;

89. ten thousand dollars (\$10,000) to purchase and install equipment, including commercial stove, lighting and safety equipment, for a mental health and substance abuse facility in Raton in Colfax county;

90. twenty thousand dollars (\$20,000) to plan, design and construct improvements to the fairgrounds in Springer in Colfax county;

91. fifty-five thousand dollars (\$55,000) to purchase vehicles for Springer in Colfax county;

92. twenty-five thousand dollars (\$25,000) to plan, design and construct sidewalks and remodel, furnish and equip the food bank of eastern New Mexico in Clovis in Curry county;

93. one hundred ten thousand dollars (\$110,000) to plan, design, construct and equip street and landscape improvements for the mainstreet program in Clovis in Curry county;

94. one hundred thousand dollars (\$100,000) to purchase and equip ambulances for Grady in Curry county;

95. twenty thousand dollars (\$20,000) to landscape public property in Melrose in Curry county;

96. seven thousand five hundred dollars (\$7,500) to plan, design and construct a veterans' memorial at Baxter memorial park in Melrose in Curry county;

97. thirty thousand dollars (\$30,000) to purchase and install a plotter at the assessor's office in De Baca county;

98. thirty thousand dollars (\$30,000) to purchase and equip a patrol unit for the sheriff's department in De Baca county;

99. thirty thousand dollars (\$30,000) to plan, design, construct and equip an animal control shelter in Fort Sumner in De Baca county;

100. seventy-five thousand dollars (\$75,000) to renovate the third judicial district court building in Dona Ana county;

101. fifty thousand dollars (\$50,000) to purchase and equip an animal rescue vehicle, including disaster response equipment, for the animal control unit of the sheriff's department in Dona Ana county;

102. four hundred thousand dollars (\$400,000) to plan, design and construct a community center, including site infrastructure improvements, in the Butterfield area of Dona Ana county;

103. two hundred fifty thousand dollars (\$250,000) to construct and equip a park in the east mesa area of Dona Ana county;

104. forty-seven thousand dollars (\$47,000) to purchase fire suppression vehicles, including a pumper tanker, to serve communities in Dona Ana county;

105. forty-five thousand dollars (\$45,000) to purchase crime scene processing equipment for the sheriff's department in Dona Ana county;

106. twenty-five thousand dollars (\$25,000) to purchase and install video cameras in the sheriff's department vehicles in Dona Ana county;

107. twenty-seven thousand dollars (\$27,000) to purchase and install surveillance equipment for the sheriff's department in Dona Ana county;

108. thirty-five thousand dollars (\$35,000) to purchase and install radar equipment in sheriff's department vehicles in Dona Ana county;

109. fifty thousand dollars (\$50,000) for a feasibility study to construct a swimming pool in southern Dona Ana county;

110. ninety-five thousand dollars (\$95,000) to purchase and equip vehicles with sprayers and foggers to assist the facilities and parks division of the county in controlling the spread of infectious disease in Dona Ana county;

111. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including improvements to comply with the requirements of the Americans with Disabilities Act of 1990, to the Adams ballpark in Anthony in Dona Ana county;

112. twenty-eight thousand dollars (\$28,000) to plan, design and construct a playground at Berino park in Dona Ana county;

113. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish the Chamberino community center in Dona Ana county;

114. fifty thousand dollars (\$50,000) to plan, design and construct parking lot improvements, including paving, at the Ben Archer health clinic facility in Hatch in Dona Ana county;

115. fifty thousand dollars (\$50,000) to plan, design and construct restrooms at the community baseball park in Hatch in Dona Ana county;

116. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish, including sidewalks, a driveway, road access and a parking lot, a multipurpose center in La Mesa in Dona Ana county;

117. fifty thousand dollars (\$50,000) to plan, design and construct additions and supporting infrastructure, including restrooms, for future expansion at the High Noon soccer complex in Las Cruces in Dona Ana county;

118. fifty thousand dollars (\$50,000) to plan, design and renovate an apartment complex, to construct new units to comply with the requirements of the Americans with Disabilities Act of 1990 and to construct meeting rooms and offices, all for use by homeless veterans, for the housing authority in Las Cruces in Dona Ana county;

119. one hundred thousand dollars (\$100,000) to plan, design and construct a police and fire training facility in Las Cruces in Dona Ana county;

120. twenty thousand dollars (\$20,000) to plan, design and construct phase 2 of the veterans' memorial wall in Las Cruces in Dona Ana county;

121. eighty thousand dollars (\$80,000) to purchase and equip a pumper tanker vehicle for the Mesquite fire department in Dona Ana county;

122. twelve thousand dollars (\$12,000) to landscape, including purchasing and planting trees, outside the Helena property in Mesquite in Dona Ana county;

123. five thousand dollars (\$5,000) to plan, design and construct a welcome sign, including landscaping and site improvements, in Mesquite in Dona Ana county;

124. twenty-five thousand dollars (\$25,000) to purchase and install indoor recreational equipment for Radium Springs community center in Radium Springs in Dona Ana county;

125. thirty thousand dollars (\$30,000) to plan, design and construct a parking lot for the county-owned la clinica de familia facility in San Miguel in Dona Ana county;

126. fifty thousand dollars (\$50,000) to plan, design and construct, including site improvements, the Vado del Cerro community center in Vado in Dona Ana county;

127. one hundred twenty-two thousand seven hundred dollars (\$122,700) to purchase and install bleachers that comply with the Americans with Disabilities Act of 1990 in the Artesia horse council arena in Eddy county;

128. twenty thousand dollars (\$20,000) to make improvements to the municipal court complex in Artesia in Eddy county;

129. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements, including equipment upgrades, for area parks in Carlsbad in Eddy county;

130. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements, including furnishings, to the Carlsbad battered family shelter in Carlsbad in Eddy county;

131. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip the cave and karst research center in Carlsbad in Eddy county;

132. fifty thousand dollars (\$50,000) to design and construct improvements, including roofing and flooring improvements, to the adult literacy building in Carlsbad in Eddy county;

133. forty thousand dollars (\$40,000) to purchase and equip a backhoe for Hope in Eddy county;

134. twenty-five thousand dollars (\$25,000) to purchase and equip a tractor for Hope in Eddy county;

135. twenty-three thousand nine hundred dollars (\$23,900) to plan, design and construct improvements, including purchase and installation of equipment, to the community center in Loving in Eddy county;

136. one hundred thousand dollars (\$100,000) to purchase and equip buses, including radios and handicapped lifts, for Grant county;

137. one hundred thousand dollars (\$100,000) to acquire property for, plan, design, construct, renovate, equip and furnish a multimodal bus terminal in Grant county;

138. seventy thousand dollars (\$70,000) to construct improvements, including a well, to the Cliff-Gila cemetery in Grant county;

139. one hundred thirteen thousand nine hundred dollars (\$113,900) to plan, design, construct and equip Bataan memorial park, including lighting and artificial turf for baseball and multiple-use fields, in Grant county;

140. twenty-seven thousand dollars (\$27,000) to plan, design, construct and restore historical aspects of the county courthouse in Silver City in Grant county;

141. fifty thousand dollars (\$50,000) to purchase and equip a fire truck for the Anton Chico fire department in Guadalupe county;

142. fifty thousand dollars (\$50,000) for improvements, including construction, to the metal fabrication building in Solano in Harding county;

143. three hundred thousand dollars (\$300,000) to plan, design, construct, equip and furnish a vocational career center in Hidalgo county;

144. sixty thousand dollars (\$60,000) to plan, design, construct, equip and furnish a city hall facility in Lordsburg in Hidalgo county;

145. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the fire station, including constructing an addition to house ambulances and equipment, in Eunice in Lea county;

146. seventy-one thousand seven hundred dollars (\$71,700) to plan, design and construct lighting fixtures for the All-American park in Ruidoso Downs in Lincoln county;

147. two hundred thousand dollars (\$200,000) to plan, design and construct a complex for the sixth judicial district court in Luna county;

148. three hundred seventy-three thousand nine hundred dollars (\$373,900) to plan, design, construct, renovate, equip and furnish the joint city and county public safety building in Luna county;

149. one hundred thousand dollars (\$100,000) to plan, design, construct and equip an economic resource center in Gallup in McKinley county;

150. twenty thousand dollars (\$20,000) to acquire land for, plan, design and construct the Pyramid Rock trail system in Gallup in McKinley county;

151. fifty thousand dollars (\$50,000) to plan, design and construct a public safety facility for the Gallup police department and the McKinley county sheriff's office in Gallup in McKinley county;

152. one hundred three thousand nine hundred dollars (\$103,900) to design, remodel, equip and furnish the northwest New Mexico council of governments' building in Gallup in McKinley county;

153. fifty thousand dollars (\$50,000) to plan, design and construct a regional outdoor recreation complex in Thoreau in McKinley county;

154. two hundred ten thousand dollars (\$210,000) to repair and renovate Nakai park and softball fields, including trail and landscaping improvements, in the Tohatchi chapter of the Navajo Nation in McKinley county;

155. twenty-three thousand nine hundred dollars (\$23,900) to plan, design, construct, equip and furnish a training facility at the Ocate and Ojo Feliz volunteer fire department in Mora county;

156. twenty-five thousand dollars (\$25,000) to plan, design and construct renovations, including improvements to the site and to comply with the Americans with Disabilities Act of 1990, to the Ocate community center in Ocate in Mora county;

157. twenty-five thousand dollars (\$25,000) to purchase and install information technology and equipment for Taos-Colfax community services in Taos in Taos county;

158. two thousand dollars (\$2,000) to plan, design and construct a facility for the county sheriff's department to accommodate and comply with the Electronic Recording Act in Otero county;

159. forty-eight thousand eight hundred dollars (\$48,800) to plan, design, renovate and construct flood plain detention, retention and diversion structures in the Alamo canyon area of Otero county;

160. fifty thousand dollars (\$50,000) to plan, design and renovate the Otero county jail for office space in Otero county;

161. eighty-seven thousand dollars (\$87,000) to demolish exhibit buildings and plan, design, construct, equip and furnish a multipurpose facility at the Otero county fairgrounds in Alamogordo in Otero county;

162. one hundred thirteen thousand dollars (\$113,000) to renovate and improve buildings, including roof replacement and electrical, heating and cooling improvements, at the Otero county fairgrounds in Alamogordo in Otero county;

163. twenty thousand dollars (\$20,000) to renovate and construct tennis courts at Zenith park in Cloudcroft in Otero county;

164. two hundred thousand dollars (\$200,000) to plan, design and construct a children's learning center at the library in Tularosa in Otero county;

165. four hundred thousand dollars (\$400,000) to plan, design and construct improvements to the little league baseball field, including lighting, bleachers, scoreboards and sprinklers, in Tularosa in Otero county;

166. fifty thousand dollars (\$50,000) to purchase and install playground equipment and signage for parks in Tularosa in Otero county;

167. fifty thousand dollars (\$50,000) to purchase, repair, upgrade and install equipment for the Arch Hurley conservancy district in Quay county;

168. ten thousand dollars (\$10,000) to purchase search and rescue equipment for the Rio Arriba mounted sheriff's posse in Rio Arriba county;

169. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish renovations to the community center for the San Joaquin del Rio de Chama land grant association in Rio Arriba county. The appropriation is contingent upon the community land grant-merced complying with the provisions of Chapter 49, Article 1 NMSA 1978 and the Audit Act;

170. twenty thousand dollars (\$20,000) to purchase and equip vans for Chimayo in Rio Arriba county;

171. twenty thousand dollars (\$20,000) to plan, design and construct infrastructure improvements to the community center in Petaca in Rio Arriba county;

172. forty thousand one hundred dollars (\$40,100) to plan, design, construct and equip an addition to La Casa family health center in Portales in Roosevelt county;

173. two hundred thousand dollars (\$200,000) to plan, design, construct and equip improvements to municipal parks, including restrooms, landscaping, playground equipment and access, in Bloomfield in San Juan county;

174. eighty thousand dollars (\$80,000) to purchase and equip a fire truck for La Placita rural volunteer fire department in San Miguel county;

175. sixty thousand dollars (\$60,000) to plan, design and construct improvements to the community center in San Geronimo in San Miguel county;

176. twenty-three thousand eight hundred dollars (\$23,800) to plan, design and construct a DWI park in San Miguel county;

177. forty thousand dollars (\$40,000) to purchase and equip a bus for transporting veterans in Las Vegas in San Miguel county;

178. seventy thousand dollars (\$70,000) to replace gas lines in the westside area of Las Vegas in San Miguel county;

179. two hundred fifty thousand dollars (\$250,000) to acquire land for, plan, design, construct and equip a baseball field, including lighting, landscaping, related facilities and erosion control, in Sandoval county;

180. forty-five thousand dollars (\$45,000) to plan, design, construct, equip and furnish a facility for use by a small business equity foundation in Sandoval county;

181. fifty thousand dollars (\$50,000) to plan, design, construct and equip a humane education and training center for disabled students and at-risk teens in Sandoval county;

182. fifty-five thousand one hundred dollars (\$55,100) to plan, design, equip and improve infrastructure, including improvements to comply with the requirements of the Americans with Disabilities Act of 1990, for the Coronado little league in Bernalillo in Sandoval county;

183. twenty thousand dollars (\$20,000) to plan, design, construct, equip and furnish, including landscaping, a business incubator in Bernalillo in Sandoval county;

184. eighty-three thousand dollars (\$83,000) to plan, design and construct improvements to Casa San Ysidro, including a visitor center and a bridge, in Corrales in Sandoval county;

185. fifty thousand dollars (\$50,000) to purchase and install public safety communication equipment in Corrales in Sandoval county;

186. sixty-seven thousand seven hundred dollars (\$67,700) to renovate and equip the office facility of the Ponderosa mutual domestic water consumers association and sewage works association in Sandoval county;

187. thirty-seven thousand dollars (\$37,000) to purchase, install and improve playground equipment, including surfacing, at Cielo Vista park in Rio Rancho in Sandoval county;

188. three hundred thousand dollars (\$300,000) to plan, design, construct and equip a New Mexico military history museum in Rio Rancho in Sandoval county;

189. thirty-seven thousand seven hundred dollars (\$37,700) to plan, design, construct and equip a teen center for the boys' and girls' club in Rio Rancho in Sandoval county;

190. one hundred fifty thousand dollars (\$150,000) to purchase and install lighting for the city center in Rio Rancho in Sandoval county;

191. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and acquire land for a community baseball field and related facilities, including a batting cage, locker rooms, landscaping and lighting, in Rio Rancho in Sandoval county;

192. fifty thousand one hundred dollars (\$50,100) to purchase and equip a skid steer for San Ysidro village park in San Ysidro in Sandoval county;

193. eight hundred thousand dollars (\$800,000) to acquire land for, plan, design, construct, equip and furnish the first judicial district complex in Santa Fe county;

194. seventy thousand dollars (\$70,000) to plan, design, construct, renovate and equip the Galisteo community park in Santa Fe county;

195. fifty thousand dollars (\$50,000) to equip and furnish a multipurpose center for use by an organization serving the developmentally disabled in Santa Fe county;

196. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment and furniture, in Santa Fe county;

197. seventy-five thousand dollars (\$75,000) to design and construct a soccer field in Eldorado, contingent upon Santa Fe county and the Santa Fe public school district executing an agreement for a joint-use county-school soccer field in Santa Fe county;

198. fifty thousand dollars (\$50,000) to plan, design and construct a community facility in La Cienega in Santa Fe county;

199. forty-three thousand eight hundred dollars (\$43,800) to purchase, plan, design, construct and install equipment for playground and picnic areas in La Puebla in Santa Fe county;

200. fifty thousand one hundred dollars (\$50,100) to plan, design and construct improvements to the Cesar Chavez multipurpose field in Santa Fe in Santa Fe county;

201. fifty thousand dollars (\$50,000) to purchase and equip vans for after-school and summer programs in Santa Fe in Santa Fe county;

202. fifty thousand dollars (\$50,000) to plan, design and construct improvements to Alto park in Santa Fe in Santa Fe county;

203. fifty thousand dollars (\$50,000) to plan, design and construct trails and a water system at the Santa Fe botanical gardens on city property near Museum hill in Santa Fe in Santa Fe county;

204. forty-eight thousand eight hundred dollars (\$48,800) to upgrade and repair the Alto street facility of the city-owned boys' and girls' club in Santa Fe in Santa Fe county;

205. forty thousand dollars (\$40,000) to plan, design and construct improvements to Franklin E. Miles park in Santa Fe in Santa Fe county;

206. fifty thousand dollars (\$50,000) to plan, design and construct improvements to Larragoite park in Santa Fe in Santa Fe county;

207. twenty thousand dollars (\$20,000) to purchase and install safety nets and shade covers at the Marty Sanchez golf course and the municipal recreation complex in Santa Fe in Santa Fe county;

208. fifty thousand dollars (\$50,000) to plan, design and construct a concession building at the municipal recreation complex rugby fields on Caja del Rio road in Santa Fe in Santa Fe county;

209. fifty thousand dollars (\$50,000) to plan, design, construct and equip Ragle park in Santa Fe in Santa Fe county;

210. one million one hundred thousand dollars (\$1,100,000) to plan, design, renovate and expand facilities, including the emergency department, at St. Vincent medical center in Santa Fe in Santa Fe county;

211. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a museum in Truth or Consequences in Sierra county;

212. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the animal control building for the animal protection association in Socorro in Socorro county;

213. one hundred eight thousand dollars (\$108,000) to plan, design and construct a convention center, including rodeo and recreation facilities, in Socorro in Socorro county;

214. thirty thousand dollars (\$30,000) to make improvements to the technology laboratory in Socorro in Socorro county;

215. twenty thousand dollars (\$20,000) to plan, design and construct site and facility improvements to buildings in Rodarte in Taos county;

216. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip an animal shelter in Taos county;

217. twenty-five thousand dollars (\$25,000) to plan, design and construct El Prado community center in Taos county;

218. forty-seven thousand one hundred dollars (\$47,100) to plan, design, construct, equip and furnish the library, including paving, in Questa in Taos county;

219. fifty thousand dollars (\$50,000) to plan, design, construct and equip a veterans' memorial in Questa in Taos county;

220. twenty-five thousand dollars (\$25,000) to purchase vans for the county-owned Casa de Corazon youth facility in Taos in Taos county;

221. twenty-five thousand dollars (\$25,000) to purchase, equip and furnish a facility for the Llano Quemado community center in Taos in Taos county;

222. thirty thousand dollars (\$30,000) to plan, design, construct, equip and furnish a park in the Manzano land grant in Torrance county;

223. one hundred twenty-five thousand dollars (\$125,000) to renovate the community center and municipal building, including designing, constructing, equipping and furnishing a kitchen facility, in Estancia in Torrance county;

224. thirteen thousand eight hundred dollars (\$13,800) to plan, design and construct a DWI memorial park in Moriarty in Torrance county;

225. eleven thousand dollars (\$11,000) to purchase road equipment for the road department in Union county;

226. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip an ambulance building in Folsom in Union county;

227. eighty-four thousand dollars (\$84,000) to purchase and equip a tanker for the Peralta fire station in Valencia county;

228. forty thousand dollars (\$40,000) to relocate and restore the historic doodlebug train in Belen in Valencia county; and

229. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements to the recreation field in Bosque in Valencia county.

## **Chapter 2 Section 27 Laws 2007**

Section 27. PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL PROJECT--GENERAL FUND.--Two million dollars (\$2,000,000) is appropriated from the general fund to the public school capital outlay council for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, to plan, design, construct and renovate schools using energy-efficient, effective and high-performance sustainable building standards statewide.

## **Chapter 2 Section 28 Laws 2007**

Section 28. READING MATERIALS FUND PROJECT--GENERAL FUND.--Three hundred seventy-three thousand nine hundred dollars (\$373,900) is appropriated from the general fund to the reading materials fund for expenditure in fiscal year 2007 and subsequent fiscal years for scientific research-based core comprehensive, intervention and supplementary books for reading programs in school districts statewide. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

## **Chapter 2 Section 29 Laws 2007**

Section 29. TOURISM DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the tourism department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. twenty-five thousand dollars (\$25,000) for the New Mexico sports authority to support a youth track and field sports program in Angel Fire in Colfax county; and
2. fifty thousand dollars (\$50,000) for expenses related to the prop shop for film production.

## **Chapter 2 Section 30 Laws 2007**

Section 30. DEPARTMENT OF TRANSPORTATION PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the department of transportation for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. one hundred fifty-six thousand eight hundred dollars (\$156,800) to plan, design and construct improvements on Granada road from Foothill drive to Telesfor drive and on other roads in the Atrisco and Ranchos de Atrisco areas in the south valley of Bernalillo county;

2. fifteen thousand dollars (\$15,000) to plan, design and construct road improvements, including landscaping, sidewalks and lighting, in house district 11 in Bernalillo county;

3. two hundred thousand one hundred dollars (\$200,100) to plan, design and construct road improvements, including paving, on La Vega drive in Bernalillo county;

4. fifty thousand dollars (\$50,000) to plan, design and construct improvements to Eldorado crossing at the intersection of Juan Tabo and Montgomery in Albuquerque in Bernalillo county;

5. fifty thousand dollars (\$50,000) to plan, design and construct a quiet crossing at the railroad tracks and Griegos road northwest for the mid-region council of governments in the north valley area of Albuquerque in Bernalillo county;

6. two hundred forty-two thousand dollars (\$242,000) to plan, design and construct median landscaping on Carlisle boulevard from Candelaria road to Comanche boulevard in Albuquerque in Bernalillo county;

7. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to landscaping on the medians on Central between Unser and Ninety-eighth and on the medians on Coors between Central and Bridge in Albuquerque in Bernalillo county;

8. seventy-five thousand dollars (\$75,000) to plan, design and construct a pedestrian observation platform on the Central avenue bridge in Albuquerque in Bernalillo county;

9. twelve thousand dollars (\$12,000) to plan, design and construct improvements, including drainage, valley curbs and compacted gravel shoulders, to Cypress drive from the Isleta drain west to Central avenue, including sections of this street both inside and outside Albuquerque, and other roads in the Atrisco and Ranchos de Atrisco areas in the south valley in Bernalillo county;

10. fifty thousand dollars (\$50,000) to plan, design, install, improve and landscape medians on Innovation parkway at the Sandia science and technology park in Albuquerque in Bernalillo county;

11. seventy-eight thousand eight hundred dollars (\$78,800) to plan, design and construct traffic lights at Mountain road and Eighteenth street in Albuquerque in Bernalillo county;

12. one hundred fifty thousand dollars (\$150,000) to plan, design and construct the Rio Grande pedestrian observation platform on the Central avenue bridge in Albuquerque in Bernalillo county;

13. fifty thousand dollars (\$50,000) to plan, design and construct storm drain improvements on west Central avenue in Albuquerque in Bernalillo county;

14. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to the median on Wyoming boulevard from Wilshire boulevard to Academy boulevard in Albuquerque in Bernalillo county;

15. twenty-five thousand dollars (\$25,000) for mainstreet program improvements to Fourth street in Los Ranchos de Albuquerque in Bernalillo county;

16. fifteen thousand dollars (\$15,000) to plan, design and construct a pedestrian and bicycle path adjacent to Rio Grande boulevard in Los Ranchos de Albuquerque in Bernalillo county;

17. fifty thousand dollars (\$50,000) to plan, design and construct arroyo bridge crossings in Tijeras in Bernalillo county;

18. fifty thousand dollars (\$50,000) for a feasibility and location study, environmental assessment, archaeological clearance and right-of-way acquisition and to design and construct a relief route on the east side of Roswell in Chaves county;

19. eighty-two thousand seven hundred dollars (\$82,700) to plan, design and construct improvements, including resurfacing, to the roads in Lake Arthur in Chaves county;

20. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to Back Basin road, including surfacing, in Angel Fire in Colfax county;

21. two hundred thousand dollars (\$200,000) to purchase and install streetlights and make related improvements at the intersection of county roads 4 and K in Curry county;

22. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to roads in Curry county;

23. four hundred thousand dollars (\$400,000) to plan, design and construct an intersection in the area of Twenty-first, Commerce and Prince streets in Clovis in Curry county;

24. one hundred two thousand seven hundred dollars (\$102,700) to plan, design, construct, equip and furnish an expansion and improvements to the Clovis municipal airport in Clovis in Curry county;

25. one hundred thousand dollars (\$100,000) to plan, design and construct drainage and pavement improvements to streets in Fort Sumner in De Baca county;

26. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements, including drainage structures, to the Abeyta circle in Dona Ana county;

27. two hundred thirty-eight thousand dollars (\$238,000) to acquire rights of way, plan, design and construct improvements, including drainage, to Corona road in Dona Ana county;

28. twenty-six thousand dollars (\$26,000) to plan, design, survey and construct improvements, including base course and surfacing, to the Berino town site intersection in Dona Ana county;

29. ninety-five thousand dollars (\$95,000) to plan, design and construct improvements, including drainage, to east Thorpe road in Dona Ana in Dona Ana county;

30. fifty thousand one hundred dollars (\$50,100) to purchase and install bus shelters for the city transit system in Las Cruces in Dona Ana county;

31. seven thousand dollars (\$7,000) to plan, design and construct improvements to Calle Jonguerra in Mesilla in Dona Ana county;

32. fifty thousand dollars (\$50,000) to plan, design and construct improvements to A and B streets, including asphalt overlay and drainage, in Organ in Dona Ana county;

33. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to roads and highways in Harding county;

34. two hundred thousand dollars (\$200,000) to plan, design and construct utility and street improvements to the Goodwin area in Hobbs in Lea county;

35. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to Cedar street, including the access traffic ramp, in Deming in Luna county;

36. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct improvements to county road 1 in McKinley county;

37. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to Pinehaven road in McKinley county;

38. ten thousand dollars (\$10,000) to purchase and install street lights outside the senior center in the Crownpoint chapter of the Navajo Nation in McKinley county;

39. five hundred thousand dollars (\$500,000) to plan, design and construct bridge 567 on county road 6100 in San Juan county;

40. two hundred ten thousand dollars (\$210,000) to plan, design and construct improvements, including paving, to county road 5512 in San Juan county;

41. two hundred thousand dollars (\$200,000) to plan, design, construct and improve sidewalks and bike lanes for Third and Fourth streets in Bloomfield in San Juan county;

42. one hundred fifty thousand dollars (\$150,000) to plan, design and construct drainage and surface improvements to Big Mesa road in San Miguel county;

43. thirty thousand dollars (\$30,000) to plan, design and construct improvements to Blanchard road, county road B-26, in San Miguel county;

44. forty thousand dollars (\$40,000) to plan, design and construct improvements to El Cerrito road in San Miguel county;

45. fifty-two thousand dollars (\$52,000) to plan, design and construct road improvements in San Geronimo in San Miguel county;

46. thirty thousand dollars (\$30,000) to plan, design and construct road and drainage improvements to county roads A-2 and A-3 in San Miguel county;

47. forty thousand dollars (\$40,000) to plan, design and construct road improvements to Romero street in Las Vegas in San Miguel county;

48. forty-eight thousand dollars (\$48,000) to plan, design and construct improvements to El Valle de los Padres road in Pecos in San Miguel county;

49. fifty thousand dollars (\$50,000) to plan, design and construct the Sandoval county portion of the northwest corridor loop road connecting interstate 40 and interstate 25 via United States highway 550 in Sandoval county;

50. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct Loma Larga road in Corrales in Sandoval county;

51. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct a pedestrian walkway, including right-of-way acquisition, in Jemez Springs in Sandoval county;

52. fifty thousand dollars (\$50,000) to plan, design and construct improvements to Lincoln avenue between Springer drive and Chayote in Rio Rancho in Sandoval county;

53. one hundred thousand dollars (\$100,000) to plan, design and construct curbing and sidewalks along Lisbon road in Rio Rancho in Sandoval county;

54. fifty thousand dollars (\$50,000) to plan, design and construct improvements to Ravens Ridge road, county road 67-G, in Santa Fe county;

55. one hundred thousand one hundred dollars (\$100,100) to plan, design and construct improvements to dirt roads in Eldorado at Santa Fe, including units 1, 2 and 3, in Santa Fe county;

56. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a soft-surface bicycle trail on Old Santa Fe trail from the intersection of Zia road and Old Santa Fe trail southward to El Gancho way and then westward to Old Las Vegas highway in Santa Fe in Santa Fe county;

57. fifty-eight thousand dollars (\$58,000) to plan, design and construct improvements, including paving, to Franklin road in Valencia county;

58. fifty-five thousand dollars (\$55,000) to plan, design and construct improvements, including drainage, to roads in the Highland Meadows area of Valencia county;

59. fifty thousand dollars (\$50,000) to plan, design and construct road improvements to county roads in legislative district 7 and county commission district 2 in Valencia county;

60. one hundred three thousand nine hundred dollars (\$103,900) to plan, design and construct road improvements to county roads in legislative district 8 and county commission district 4, including Toby road, Bosque circle, Maestas road and Storey road, in Valencia county; and

61. sixteen thousand dollars (\$16,000) to plan, design and construct speed humps along Serafin road in Jarales in Valencia county.

## **Chapter 2 Section 31 Laws 2007**

Section 31. HIGHER EDUCATION DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the higher education department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. twenty-five thousand dollars (\$25,000) to upgrade the heating, ventilation and cooling systems in classrooms, computer labs and the auditorium at the Luna community college satellite campus in Springer in Colfax county;

2. sixty thousand dollars (\$60,000) to equip the music laboratory at Clovis community college in Curry county;

3. five thousand dollars (\$5,000) to purchase and install a wind turbine for the North American wind research and training center at Mesalands community college in Tucumcari in Quay county;

4. fifty-three thousand eight hundred dollars (\$53,800) to plan, design, construct and equip a health and science building at Santa Fe community college in Santa Fe in Santa Fe county; and

5. twenty-five thousand dollars (\$25,000) to furnish and equip, including information technology, the broadcast studios of KSFR public radio station at Santa Fe community college in Santa Fe county.

## **Chapter 2 Section 32 Laws 2007**

Section 32. EASTERN NEW MEXICO UNIVERSITY PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of eastern New Mexico university for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. fifty thousand dollars (\$50,000) to construct facilities, including portables, for the child development program at the Roswell campus of eastern New Mexico university in Chaves county;

2. twenty thousand dollars (\$20,000) to purchase and install security systems, including telephones, in classrooms at the Roswell campus of eastern New Mexico university in Chaves county;

3. one hundred seventy thousand dollars (\$170,000) to equip and furnish the media arts center at the Roswell campus of eastern New Mexico university in Chaves county;

4. twenty-eight thousand dollars (\$28,000) to purchase a universal patient simulator for the nursing program at the Roswell campus of eastern New Mexico university in Chaves county;

5. eighty-five thousand dollars (\$85,000) to purchase vehicles and equipment for the special services and career and technical education programs at the Roswell campus of eastern New Mexico university in Chaves county;

6. twelve thousand dollars (\$12,000) to purchase, construct, equip and furnish facilities for the welding department at the Roswell campus of eastern New Mexico university in Chaves county;

7. two hundred twenty thousand dollars (\$220,000) to pave the parking lot at the gymnasium at eastern New Mexico university in Portales in Roosevelt county;

8. ten thousand dollars (\$10,000) to purchase equipment for the safe ride program at eastern New Mexico university in Portales in Roosevelt county; and

9. twenty-five thousand dollars (\$25,000) to purchase, equip, furnish and install videoconferencing equipment at eastern New Mexico university in Portales in Roosevelt county.

## **Chapter 2 Section 33 Laws 2007**

Section 33. NEW MEXICO HIGHLANDS UNIVERSITY PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of New Mexico highlands university for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and furnish an early childhood center at New Mexico highlands university in Las Vegas in San Miguel county;

2. twenty-five thousand dollars (\$25,000) to purchase and install security equipment, including security poles, at New Mexico highlands university in Las Vegas in San Miguel county; and

3. eighteen thousand one hundred dollars (\$18,100) to purchase and equip vehicles for the work program at New Mexico highlands university in Las Vegas in San Miguel county.

## **Chapter 2 Section 34 Laws 2007**

Section 34. NEW MEXICO MILITARY INSTITUTE PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of New Mexico military institute for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. twenty-five thousand dollars (\$25,000) to purchase information technology, equipment and uniforms for the baseball program at New Mexico military institute in Roswell in Chaves county;

2. five hundred thousand dollars (\$500,000) to plan, design and construct renovations to Pearson hall, including updating the audiovisual and acoustic system, at New Mexico military institute in Roswell in Chaves county; and

3. one hundred forty-five thousand dollars (\$145,000) to purchase and install lighting at Stapp field at New Mexico military institute in Roswell in Chaves county.

## **Chapter 2 Section 35 Laws 2007**

Section 35. NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of New Mexico institute of mining and technology for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. six hundred seventy-eight thousand dollars (\$678,000) to purchase and install equipment and furnishings for the DNA sequencer project at New Mexico institute of mining and technology in Socorro in Socorro county; and

2. twenty-five thousand dollars (\$25,000) to purchase and install information technology, including related equipment and furniture, at universities and school districts statewide participating in the New Mexico mathematics, engineering and science achievement program through the New Mexico institute of mining and technology.

## **Chapter 2 Section 36 Laws 2007**

Section 36. NEW MEXICO STATE UNIVERSITY PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of New Mexico state university for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. thirty thousand dollars (\$30,000) to acquire land for, plan, design and construct a multiuse agricultural facility in the south valley of Albuquerque in Bernalillo county;

2. sixty thousand dollars (\$60,000) to purchase a plot combine for the New Mexico state university agriculture science center in Clovis in Curry county;

3. fifty thousand dollars (\$50,000) for an equipment storage barn for the New Mexico state university agricultural science center in Clovis in Curry county;

4. fifty thousand dollars (\$50,000) to purchase equipment for the animal and food testing laboratory and to renovate the facilities at New Mexico state university in Las Cruces in Dona Ana county;

5. fifty thousand dollars (\$50,000) to construct improvements to, equip and furnish the baseball and softball complexes at New Mexico state university in Las Cruces in Dona Ana county;

6. fifty thousand dollars (\$50,000) to improve the baseball complex and surrounding area at New Mexico state university in Las Cruces in Dona Ana county;

7. forty thousand dollars (\$40,000) to purchase information technology and equipment for the baseball program at New Mexico state university in Las Cruces in Dona Ana county;

8. thirty thousand dollars (\$30,000) to purchase and install a scoreboard, including a message board, at the baseball field at New Mexico state university in Las Cruces in Dona Ana county;

9. one hundred thousand dollars (\$100,000) to purchase and install equipment for the college assistance migrant program at New Mexico state university in Las Cruces in Dona Ana county;

10. one hundred thousand dollars (\$100,000) to construct, equip and furnish a food production laboratory for the school of hotel, restaurant and tourism management at New Mexico state university in Las Cruces in Dona Ana county;

11. eighty thousand dollars (\$80,000) to purchase equipment and furniture for the football program at New Mexico state university in Las Cruces in Dona Ana county;

12. twenty thousand dollars (\$20,000) to restore the fresco mural at the Foster hall entryway at New Mexico state university in Las Cruces in Dona Ana county;

13. sixty thousand dollars (\$60,000) to purchase and install lighting for the intramural fields at New Mexico state university in Las Cruces in Dona Ana county;

14. twenty-five thousand dollars (\$25,000) to acquire Durango and Zacatecas historical records microfilm for the library archives at New Mexico state university in Las Cruces in Dona Ana county;

15. twenty thousand dollars (\$20,000) to purchase technical equipment and furnishings for the music department at New Mexico state university in Las Cruces in Dona Ana county;

16. thirty-six thousand four hundred dollars (\$36,400) to purchase and install lighting at the Presley Askew baseball fields at New Mexico state university in Las Cruces in Dona Ana county;

17. one hundred seventy-three thousand eight hundred dollars (\$173,800) to construct, purchase and install fitness equipment at the student activity center at New Mexico state university in Las Cruces in Dona Ana county;

18. one hundred thousand dollars (\$100,000) to renovate classroom facilities at the village at New Mexico state university in Las Cruces in Dona Ana county;

19. twenty-five thousand dollars (\$25,000) to upgrade the water resources research institute's computer server system that serves the water library and GIS mapping laboratory system at New Mexico state university in Las Cruces in Dona Ana county;

20. fifty thousand dollars (\$50,000) to purchase vehicles and equipment for the Lea county soil and water conservation district in Lea county;

21. fifty-five thousand one hundred dollars (\$55,100) to purchase vehicles and equipment for weed and tree removal for the McKinley soil and water conservation district in McKinley county;

22. ninety thousand dollars (\$90,000) to purchase a skid steer hydro mulcher for the San Juan soil and water conservation district for use in controlling the Russian olive and salt cedar infestations in San Juan county;

23. thirty thousand dollars (\$30,000) to plan, design, construct, equip and furnish a natural resource educational facility for the east Torrance soil and water conservation district in Torrance county; and

24. ten thousand dollars (\$10,000) to plan, design, construct, equip and furnish the livestock research center feed mill at New Mexico state university in Clayton in Union county.

## **Chapter 2 Section 37 Laws 2007**

Section 37. NORTHERN NEW MEXICO STATE SCHOOL PROJECT--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of northern New Mexico state school for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. one million five hundred thousand dollars (\$1,500,000) to purchase land adjacent to the Espanola campus to accommodate expansion of northern New Mexico state school in Rio Arriba county; and

2. one million five hundred thousand dollars (\$1,500,000) to purchase equipment and materials for the library of the Espanola campus of northern New Mexico state school in Rio Arriba county.

## Chapter 2 Section 38 Laws 2007

Section 38. UNIVERSITY OF NEW MEXICO PROJECTS--GENERAL FUND.--  
The following amounts are appropriated from the general fund to the board of regents of the university of New Mexico for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, for the following purposes:

1. sixty-five thousand dollars (\$65,000) to purchase and install distance learning equipment at the Charlie Morrissey research center for the department of African American studies at the university of New Mexico in Albuquerque in Bernalillo county;
2. seventy-five thousand dollars (\$75,000) to continue environmental and health research and demonstration projects, including those related to advancing knowledge of precautionary principles, sustainable development and healthy communities, by the alliance for transportation institute at the university of New Mexico in Albuquerque in Bernalillo county;
3. one hundred thirty-five thousand dollars (\$135,000) to plan, design, construct, equip and furnish an alumni center at the university of New Mexico in Albuquerque in Bernalillo county;
4. eighty-seven thousand dollars (\$87,000) to purchase equipment, including tractors and utility vehicles, and to plan, design and construct a fence adjacent to a wild horse preserve in Socorro county for the mammal division of the biology department at the university of New Mexico;
5. fifty thousand dollars (\$50,000) to purchase and install equipment at the Carlisle gymnasium at the university of New Mexico in Albuquerque in Bernalillo county;
6. one hundred forty-three thousand nine hundred dollars (\$143,900) for golf hitting bays at the university of New Mexico golf course in Albuquerque in Bernalillo county;
7. two hundred thousand dollars (\$200,000) to purchase digital photography and editing equipment for the graduate studies building at the university of New Mexico in Albuquerque in Bernalillo county;
8. twenty-three thousand eight hundred dollars (\$23,800) to plan, design, renovate, repair, construct, furnish and equip Hodgin hall for use as an alumni center at the university of New Mexico in Albuquerque in Bernalillo county;
9. twenty thousand dollars (\$20,000) to plan, design, purchase and install lighting at Johnson field at the university of New Mexico in Albuquerque in Bernalillo county;

10. two hundred thousand dollars (\$200,000) for constructing, purchasing and installing equipment for the manufacturing training and technology center clean room at the university of New Mexico in Albuquerque in Bernalillo county;

11. twenty-five thousand dollars (\$25,000) to plan and design the Native American learning center at the university of New Mexico in Albuquerque in Bernalillo county;

12. three hundred seventy-five thousand one hundred dollars (\$375,100) to plan, design and construct a facility for the Tamarind institute at the university of New Mexico in Albuquerque in Bernalillo county;

13. fifty thousand dollars (\$50,000) to plan, design, construct and renovate a facility to house the intertribal Indian ceremonial collection at the Gallup branch of the university of New Mexico in McKinley county; and

14. one hundred thousand dollars (\$100,000) to plan, design and construct a building at the university of New Mexico west campus in Rio Rancho in Sandoval county.

## **Chapter 2 Section 39 Laws 2007**

Section 39. WESTERN NEW MEXICO UNIVERSITY PROJECT--GENERAL FUND.--Forty-five thousand dollars (\$45,000) is appropriated from the general fund to the board of regents of western New Mexico university for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 1 of this act, to purchase and install information technology for the Gallup graduate studies center of western New Mexico university in Gallup in McKinley county.

## **Chapter 2 Section 40 Laws 2007**

Section 40. 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 2 Section 41 Laws 2007**

Section 41. 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 2 Section 42 Laws 2007**

Section 42. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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Senate Bill 710, as amended,

with emergency clause

Approved March 1, 2007

## **LAWS 2007, CHAPTER 3**

### **AN ACT**

RELATING TO ELECTRIC POWER; ENACTING THE NEW MEXICO RENEWABLE ENERGY TRANSMISSION AUTHORITY ACT; CREATING THE NEW MEXICO RENEWABLE ENERGY TRANSMISSION AUTHORITY; PROVIDING, UNDER CERTAIN CIRCUMSTANCES, FOR THE FINANCING OR THE PLANNING, ACQUISITION, MAINTENANCE AND OPERATION OF CERTAIN ELECTRIC TRANSMISSION FACILITIES BY THE AUTHORITY; PROVIDING GROSS RECEIPTS TAX DEDUCTIONS FOR CERTAIN RECEIPTS RELATING TO ELECTRIC TRANSMISSION PROJECTS; PROVIDING A COMPENSATING TAX DEDUCTION FOR THE VALUE OF CERTAIN EQUIPMENT INSTALLED AS PART OF ELECTRIC TRANSMISSION PROJECTS; PROVIDING FOR THE ISSUANCE OF RENEWABLE ENERGY TRANSMISSION BONDS; MAKING AN APPROPRIATION.

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

### **Chapter 3 Section 1 Laws 2007**

Section 1. SHORT TITLE.--Sections 1 through 15 of this act may be cited as the "New Mexico Renewable Energy Transmission Authority Act".

### **Chapter 3 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the New Mexico Renewable Energy Transmission Authority Act:

A. "acquire" means to obtain eligible facilities by lease, construction, reconstruction or purchase;

B. "authority" means the New Mexico renewable energy transmission authority;

C. "bonds" means renewable energy transmission bonds and includes notes, warrants, bonds, temporary bonds and anticipation notes issued by the authority;

D. "eligible facilities" means facilities to be financed or acquired by the authority, in which, within one year after beginning the transmission or storage of any electricity, and thereafter, at least thirty percent of the electric energy, as estimated by the authority, originates from renewable energy sources;

E. "facilities" means electric transmission and interconnected storage facilities and all related structures, properties and supporting infrastructure, including any interests therein;

F. "finance" or "financing" means the lending of bond proceeds by the authority to a public utility or other private person for the purpose of planning, acquiring, operating and maintaining eligible facilities in whole or in part by that public utility or other private person;

G. "project" means an undertaking by the authority to finance or plan, acquire, maintain and operate eligible facilities located in part or in whole within the state of New Mexico;

H. "public utility" means a public electric utility regulated by the public regulation commission pursuant to the Public Utility Act and municipal utilities exempt from public regulation commission regulation pursuant to Section 62-6-4 NMSA 1978 that own or operate facilities;

I. "renewable energy" means electric energy:

(1) generated by use of low- or zero-emissions generation technology with substantial long-term production potential; and

(2) generated by use of renewable energy resources that may include:

(a) solar, wind, hydropower and geothermal resources;

(b) fuel cells that are not fossil fueled; or

(c) biomass resources, such as agriculture or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass; but

(3) does not include electric energy generated by use of fossil fuel or nuclear energy; and

J. "storage" means energy storage technologies that convert, store and return electricity to help alleviate disparities between electricity supply and demand, to facilitate the dispatching of electricity or to increase economic return on the sale of electricity.

## **Chapter 3 Section 3 Laws 2007**

### **Section 3. NEW MEXICO RENEWABLE ENERGY TRANSMISSION AUTHORITY CREATED--ORGANIZATION.--**

A. The "New Mexico renewable energy transmission authority" is created as a public body, politic and corporate, separate and apart from the state, constituting a governmental instrumentality for the performance of essential public functions.

B. The authority shall be composed of seven members as follows:

(1) three members appointed by the governor with the advice and consent of the senate. The initial appointees shall be appointed for staggered terms of one, two and three years; thereafter the members shall be appointed for three-year terms;

(2) the state investment officer or the state investment officer's designee;

(3) the state treasurer or the state treasurer's designee;

(4) one member appointed by the speaker of the house of representatives who shall serve at the pleasure of the speaker of the house; and

(5) one member appointed by the president pro tempore of the senate who shall serve at the pleasure of the president pro tempore.

C. The qualifications of the members shall be as follows:

(1) one member appointed by the governor shall have expertise in financial matters involving the financing of major electrical transmission projects;

(2) the other four appointed members shall have:

(a) special knowledge of the public utility industry, as evidenced by college degrees or by experience, at least five years of which must be with the public utility industry; and

(b) knowledge of renewable energy development; and

(3) no member shall represent a person that owns or operates facilities.

D. The members initially appointed by the speaker of the house and the president pro tempore of the senate shall, by lot, determine one to have an initial term of two years and one to have an initial term of four years; thereafter, the appointments will be for staggered terms of four years.

E. In addition to the seven voting members, the secretary of energy, minerals and natural resources shall serve as an ex-officio nonvoting member of the authority.

F. The governor shall designate an appointed member of the authority to serve as chair, and the authority may elect annually such other officers as it deems necessary.

G. The authority shall meet at the call of the chair or whenever four members shall so request in writing. A majority of members then serving constitutes a quorum for the transaction of business, but the affirmative vote of at least four members is necessary for any action to be taken by the authority.

H. The authority is not created or organized and its operations are not conducted for the purpose of making a profit, but it is expected to recover the costs of operating the authority. No part of the revenues or assets of the authority shall benefit or be distributable to its members, officers or other private persons. The members of the authority shall receive no compensation for their services, but the public members shall be reimbursed for actual and necessary expenses at the same rate and on the same basis as provided for public officers in the Per Diem and Mileage Act.

I. The authority is not subject to the supervision or control of any other board, bureau, department or agency of the state except as specifically provided in the New Mexico Renewable Energy Transmission Authority Act. No use of the terms "state agency" or "instrumentality" in any other law of the state shall be deemed to refer to the authority unless the authority is specifically referred to in the law.

J. The authority is a governmental instrumentality for purposes of the Tort Claims Act.

## **Chapter 3 Section 4 Laws 2007**

### **Section 4. AUTHORITY--DUTIES AND POWERS.--**

A. The authority shall:

(1) do any and all things necessary or proper to accomplish the purposes of the New Mexico Renewable Energy Transmission Authority Act;

(2) hire an executive director and such other employees or other agents as it deems necessary for the performance of its powers and duties, including consultants, financial advisors and legal advisors, and prescribe the powers and duties and fix the

compensation of the employees and agents. The executive director of the authority shall direct the affairs and business of the authority, subject to the policies, control and direction of the authority; and

(3) maintain such records and accounts of revenues and expenditures as required by the state auditor. The state auditor or the state auditor's designee shall conduct an annual financial and legal compliance audit of the accounts of the authority and file copies with the governor and the legislature.

B. The authority may:

(1) make and execute agreements, contracts and other instruments necessary or convenient in the exercise of its powers and functions with any person or governmental agency;

(2) enter into contractual agreements with respect to one or more projects upon the terms and conditions the authority considers advisable;

(3) utilize the services of executive departments of the state upon mutually agreeable terms and conditions;

(4) enter into partnerships with public or private entities;

(5) identify and establish corridors for the transmission of electricity within the state;

(6) through participation in appropriate regional transmission forums, coordinate, investigate, plan, prioritize and negotiate with entities within and outside the state for the establishment of interstate transmission corridors;

(7) pursuant to Subsection C of this section, finance or plan, acquire, maintain and operate eligible facilities necessary or useful for the accomplishment of the purposes of the New Mexico Renewable Energy Transmission Authority Act;

(8) pursuant to the provisions of the Eminent Domain Code, exercise the power of eminent domain for acquiring property or rights of way for public use if needed for projects if such action does not involve taking utility property or does not materially diminish electric service reliability of the transmission system in New Mexico, as determined by the public regulation commission;

(9) receive by gift, grant, donation or otherwise, any sum of money, aid or assistance from the United States, the state of New Mexico, any other state, any political subdivision or any other public or private entity;

(10) for any project, provide information and training to employees of the project regarding any unique hazards that may be posed by the project, as well as training in safety work practices and emergency procedures;

(11) issue bonds pursuant to the New Mexico Renewable Energy Transmission Authority Act as necessary to undertake a project;

(12) enter into contracts for the lease and operation by the authority of eligible facilities owned by a public utility or other private person;

(13) enter into contracts for leasing eligible facilities owned by the authority, provided that any revenue derived pursuant to the lease shall be deposited in the renewable energy transmission bonding fund;

(14) collect payments of reasonable rates, fees, interest or other charges from persons using eligible facilities to finance eligible facilities and for other services rendered by the authority, provided that any revenue derived from payments made to the authority shall be deposited in the renewable energy transmission bonding fund;

(15) borrow money necessary to carry out the purposes of the New Mexico Renewable Energy Transmission Authority Act and mortgage and pledge any leases, loans or contracts executed and delivered by the authority;

(16) sue and be sued; and

(17) adopt such reasonable administrative and procedural rules as may be necessary or appropriate to carry out its powers and duties.

C. Except as provided in this subsection, the authority shall not enter into any project if public utilities or other private persons are performing the acts, are constructing or have constructed the facilities, or are providing the services contemplated by the authority, and are willing to provide funds for and own new infrastructure to meet an identified need and market. Before entering into a project, the following procedures shall be implemented:

(1) the authority shall provide to each public utility and the public regulation commission and publish one time in a newspaper of general circulation in New Mexico and one time in a newspaper in the area where the eligible facilities are contemplated and on a publicly accessible web page maintained by the authority, an initial notice describing the project that the authority is contemplating, including a detailed description of the existing or anticipated renewable energy sources that justify the determination by the authority that the project facilities are eligible facilities. The description shall contain, at a minimum, the names of all persons that already are or will develop the renewable energy sources, all persons that will own the renewable energy sources and the peak output capacity, source type, location and anticipated connection date of the renewable energy sources;

(2) any person with an interest that may be affected by the proposed project shall have thirty days from the date of the last publication of the initial notice to challenge, in writing, the determination by the authority that the facilities are eligible facilities. If a challenge is received by the authority within the thirty days, the authority shall hold a public hearing no sooner than thirty days after receiving the challenge and after a minimum of two weeks notice in the same newspapers and web page in which the initial notice was given. Following the public hearing, the authority shall make a final determination of eligibility and give notice of the determination pursuant to Section 39-3-1.1 NMSA 1978. Any person or governmental entity participating in the hearing may appeal the final determination by filing a notice of appeal with the district court pursuant to Section 39-3-1.1 NMSA 1978;

(3) public utilities and other persons willing and able to provide money for, acquire, maintain and operate the eligible facilities described in the notice shall have the following time period to notify the authority of intention and ability to provide money for, acquire, maintain and operate the eligible facilities described in the notice:

(a) within ninety days of the date of the last publication of the initial notice if no challenge is received pursuant to Paragraph (2) of this subsection; or

(b) within ninety days of the date of the notice of determination if a challenge is received pursuant to Paragraph (2) of this subsection; and

(4) in the absence of notification by a public utility or other person pursuant to Paragraph (3) of this subsection, or if a person, having given notice of intention to provide money for, acquire, maintain and operate the eligible facilities contemplated by the authority, fails to make a good faith effort to commence the same within twelve months from the date of notification by the authority of its intention, the authority may proceed to finance or plan, acquire, maintain and operate the eligible facilities originally contemplated, provided that a person that, within the time required, has made necessary applications to acquire federal, state, local or private permits, certificates or other approvals necessary to acquire the eligible facilities shall be deemed to have commenced the same as long as the person diligently pursues the permits, certificates or other approvals.

D. In soliciting and entering into contracts for the transmission or storage of electricity, the authority and any person leasing or operating eligible facilities financed or acquired by the authority shall, if practical, give priority to those contracts that will transmit or store electricity to be sold and consumed in New Mexico.

E. The authority and any eligible facilities acquired by the authority are not subject to the supervision, regulation, control or jurisdiction of the public regulation commission; provided that nothing in this subsection shall be interpreted to allow a public utility to include the cost of using eligible facilities in its rate base without the approval of the public regulation commission.

F. In exercising its powers and duties, the authority shall not own or control facilities unless:

(1) the facilities are leased to or held for lease or sale to a public utility or such other person approved by the public regulation commission;

(2) the operation, maintenance and use of the facilities are vested by lease or other contract in a public utility or such other person approved by the public regulation commission;

(3) the facilities are owned or controlled for a period of not more than one hundred eighty days after termination of a lease or contract described in Paragraph (1) or (2) of this subsection or after the authority gains possession of the facilities following a breach of such a lease or contract or as a result of bankruptcy proceedings; or

(4) the facilities do not affect in-state retail rates or electric service reliability.

G. A public utility subject to regulation of the public regulation commission pursuant to the Public Utility Act may recover the capital cost of a project undertaken pursuant to the New Mexico Renewable Energy Transmission Authority Act from its retail customers only if the project has received a certificate of public convenience and necessity from the public regulation commission. A municipal utility exempt from regulation of the public regulation commission may recover such costs only if the project has been approved by the governing body of the municipality. Costs associated with a project undertaken pursuant to the New Mexico Renewable Energy Transmission Authority Act are not recoverable from retail utility customers except to the extent the costs are prudently incurred and the project is used and useful in serving those customers as determined by the public regulation commission.

### **Chapter 3 Section 5 Laws 2007**

#### **Section 5. RENEWABLE ENERGY TRANSMISSION BONDS-- APPROPRIATION OF PROCEEDS.--**

A. The authority is authorized to issue and sell revenue bonds, known as "renewable energy transmission bonds", payable solely from the renewable energy transmission bonding fund, in compliance with the New Mexico Renewable Energy Transmission Authority Act, for the purpose of entering into a project when the authority determines that the project is needed.

B. The net proceeds from the bonds are appropriated to the authority for the purpose of financing or acquiring eligible facilities.

### **Chapter 3 Section 6 Laws 2007**

Section 6. RENEWABLE ENERGY TRANSMISSION BONDING FUND  
CREATED--MONEY IN THE FUND PLEDGED.--

A. The "renewable energy transmission bonding fund" is created in the state treasury. The fund shall consist of revenues received by the authority from operating or leasing eligible facilities, fees and service charges collected, and, if the authority has provided financing for eligible facilities, money from payments of principal and interest on loans. Earnings of the fund shall be credited to the fund. Balances in the fund at the end of any fiscal year shall remain in the fund, except as provided in this section.

B. Money in the renewable energy transmission bonding fund is pledged for the payment of principal and interest on all bonds issued pursuant to the New Mexico Renewable Energy Transmission Authority Act. Money in the fund is appropriated to the authority for the purpose of paying debt service, including redemption premiums, on the bonds and the expenses incurred in the issuance, payment and administration of the bonds.

C. On the last day of January and the last day of July of each year, the authority shall estimate the amount needed to make debt service and other payments during the next twelve months from the renewable energy transmission bonding fund on the bonds plus the amount that may be needed for any required reserves. The authority shall transfer to the renewable energy transmission authority operational fund any balance in the renewable energy transmission bonding fund above the estimated amounts.

D. Bonds issued pursuant to the New Mexico Renewable Energy Transmission Authority Act shall be payable solely from the renewable energy transmission bonding fund or, with the approval of the bondholders, such other special funds as may be provided by law and do not create an obligation or indebtedness of the state within the meaning of any constitutional provision. No breach of any contractual obligation incurred pursuant to that act shall impose a pecuniary liability or a charge upon the general credit or taxing power of the state, and the bonds are not general obligations for which the state's full faith and credit is pledged.

E. The state does hereby pledge that the renewable energy transmission bonding fund shall be used only for the purposes specified in this section and pledged first to pay the debt service on the bonds issued pursuant to the New Mexico Renewable Energy Transmission Authority Act. The state further pledges that any law requiring the deposit of revenues in the renewable energy transmission bonding fund or authorizing expenditures from the fund shall not be amended or repealed or otherwise modified so as to impair the bonds to which the renewable energy transmission bonding fund is dedicated as provided in this section.

### **Chapter 3 Section 7 Laws 2007**

Section 7. AUTHORITY TO REFUND BONDS.--The authority may issue and sell at public or private sale bonds to refund outstanding renewable energy transmission

bonds by exchange, immediate or prospective redemption, cancellation or escrow, including the escrow of debt service funds accumulated for payment of outstanding bonds, or any combination thereof, when, in its opinion, such action will be beneficial to the state.

### **Chapter 3 Section 8 Laws 2007**

#### **Section 8. RENEWABLE ENERGY TRANSMISSION BONDS--FORM--EXECUTION.--**

A. The authority, except as otherwise specifically provided in the New Mexico Renewable Energy Transmission Authority Act, shall determine at its discretion the terms, covenants and conditions of the bonds, including, but not limited to, date of issue, denominations, maturities, rate or rates of interest, call features, call premiums, registration, refundability and other covenants covering the general and technical aspects of the issuance of the bonds.

B. The bonds shall be in such form as the authority may determine, and successive issues shall be identified by alphabetical, numerical or other proper series designation.

C. Bonds shall be signed and attested by the executive director of the authority and shall be executed with the facsimile signature of the chair of the authority and the facsimile seal of the authority, except for bonds issued in book entry or similar form without the delivery of physical securities. Any interest coupons attached to the bonds shall bear the facsimile signature of the executive director of the authority, which officer, by the execution of the bonds, shall adopt as the executive director's own signature the facsimile thereof appearing on the coupons. Except for bonds issued in book entry or similar form without the delivery of physical securities, the Uniform Facsimile Signature of Public Officials Act shall apply, and the authority shall determine the manual signature to be affixed on the bonds.

### **Chapter 3 Section 9 Laws 2007**

#### **Section 9. PROCEDURE FOR SALE OF RENEWABLE ENERGY TRANSMISSION BONDS.--**

A. Bonds shall be sold by the authority at such times and in such manner as the authority may elect, either at private sale for a negotiated price or to the highest bidder at public sale for cash at not less than par and accrued interest.

B. In connection with any public sale of the bonds, the authority shall publish a notice of the time and place of sale in a newspaper of general circulation in the state and also in a recognized financial journal outside the state. The publication shall be made once each week for two consecutive weeks prior to the date fixed for such sale, the last publication to be two business days prior to the date of sale. The notice shall

specify the amount, denomination, maturity and description of the bonds to be offered for sale and the place, day and hour at which sealed bids therefore shall be received. All bids, except those of the state, shall be accompanied by a deposit of two percent of the principal amount of the bonds. Deposits of unsuccessful bidders shall be returned upon rejection of the bid. At the time and place specified in such notice, the authority shall open the bids in public and shall award the bonds, or any part thereof, to the bidder or bidders offering the best price. The authority may reject any or all bids and readvertise.

C. The authority may sell a bond issue, or any part thereof, to the state or to one or more investment bankers or institutional investors at private sale.

### **Chapter 3 Section 10 Laws 2007**

Section 10. NEW MEXICO RENEWABLE ENERGY TRANSMISSION AUTHORITY ACT IS FULL AUTHORITY FOR ISSUANCE OF BONDS--BONDS ARE LEGAL INVESTMENTS.--

A. The New Mexico Renewable Energy Transmission Authority Act is, without reference to any other act of the legislature, full authority for the issuance and sale of renewable energy transmission bonds, which bonds shall have all the qualities of investment securities under the Uniform Commercial Code and shall not be invalid for any irregularity or defect or be contestable in the hands of bona fide purchasers or holders thereof for value.

B. The bonds are legal investments for any person or board charged with the investment of any public funds and are acceptable as security for any deposit of public money.

### **Chapter 3 Section 11 Laws 2007**

Section 11. SUIT MAY BE BROUGHT TO COMPEL PERFORMANCE OF OFFICERS.--Any holder of bonds or any person or officer being a party in interest may sue to enforce and compel the performance of the provisions of the New Mexico Renewable Energy Transmission Authority Act.

### **Chapter 3 Section 12 Laws 2007**

Section 12. RENEWABLE ENERGY TRANSMISSION BONDS TAX EXEMPT.--All renewable energy transmission bonds are exempt from taxation by the state or any of its political subdivisions.

### **Chapter 3 Section 13 Laws 2007**

Section 13. RENEWABLE ENERGY TRANSMISSION AUTHORITY OPERATIONAL FUND.--The "renewable energy transmission authority operational

fund" is created in the state treasury. The fund shall consist of money appropriated and transferred to the fund. Earnings from investment of the fund shall be credited to the fund. Money in the fund is appropriated to the authority for the purpose of carrying out the provisions of the New Mexico Renewable Energy Transmission Authority Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the executive director of the authority.

### **Chapter 3 Section 14 Laws 2007**

Section 14. REPORT TO LEGISLATURE.--The authority shall submit a report of its activities to the governor and to the legislature not later than December 1 of each year. Each report shall set forth a complete operating and financial statement covering its operations for the previous fiscal year.

### **Chapter 3 Section 15 Laws 2007**

Section 15. LEGISLATIVE OVERSIGHT.--

A. In addition to its other duties, the New Mexico finance authority oversight committee shall:

- (1) monitor and oversee the operation of the authority;
- (2) meet on a regular basis to receive and review reports from the authority on implementation of the provisions of the New Mexico Renewable Energy Transmission Authority Act and to review rules proposed for adoption pursuant to that act;
- (3) review and provide assistance and advice to the authority before the authority enters into a project;
- (4) undertake an ongoing examination of the statutes, constitutional provisions, regulations and court decisions governing energy transmission and renewable energy development; and
- (5) report its findings and recommendations, including recommended legislation or necessary changes, to the governor, to the public regulation commission and to each session of the legislature. The report and proposed legislation shall be made available on or before December 15 of each year.

B. Once each calendar quarter, the authority shall report to the legislative finance committee on all expenditures made and activities conducted in the fiscal year to date pursuant to the provisions of the New Mexico Renewable Energy Transmission Authority Act.

### **Chapter 3 Section 16 Laws 2007**

Section 16. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS--EQUIPMENT FOR CERTAIN ELECTRIC TRANSMISSION OR STORAGE FACILITIES.--Receipts from selling equipment to the New Mexico renewable energy transmission authority or an agent or lessee of the authority may be deducted from gross receipts if the equipment is installed as part of an electric transmission facility or an interconnected storage facility acquired by the authority pursuant to the New Mexico Renewable Energy Transmission Authority Act."

### **Chapter 3 Section 17 Laws 2007**

Section 17. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--COMPENSATING TAX--EQUIPMENT FOR CERTAIN ELECTRIC TRANSMISSION OR STORAGE FACILITIES.--The value of equipment installed as part of an electric transmission facility or an interconnected storage facility acquired by the New Mexico renewable energy transmission authority pursuant to the New Mexico Renewable Energy Transmission Authority Act may be deducted in computing compensating tax due."

### **Chapter 3 Section 18 Laws 2007**

Section 18. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS--SERVICES PROVIDED FOR CERTAIN ELECTRIC TRANSMISSION AND STORAGE FACILITIES.--Receipts from providing services to the New Mexico renewable energy transmission authority or an agent or lessee of the authority for the planning, installation, repair, maintenance or operation of an electric transmission facility or an interconnected storage facility acquired by the authority pursuant to the New Mexico Renewable Energy Transmission Authority Act may be deducted from gross receipts."

### **Chapter 3 Section 19 Laws 2007**

Section 19. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

Approved March 5, 2007

## **LAWS 2007, CHAPTER 4**

AN ACT

RELATING TO ELECTRIC UTILITIES; ENACTING SECTIONS OF THE RURAL ELECTRIC COOPERATIVE ACT; AMENDING AND ENACTING SECTIONS OF THE RENEWABLE ENERGY ACT; AMENDING SECTIONS OF THE EFFICIENT USE OF ENERGY ACT; PROVIDING FOR INCREASES IN THE RENEWABLE ENERGY PORTFOLIO OF PUBLIC UTILITIES AND RURAL ELECTRIC COOPERATIVES.

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

### **Chapter 4 Section 1 Laws 2007**

Section 1. A new section of the Rural Electric Cooperative Act is enacted to read:

"RENEWABLE PORTFOLIO STANDARD.--

A. Each distribution cooperative organized under the Rural Electric Cooperative Act shall meet the renewable portfolio standard requirements, as provided in this section, to include renewable energy in its electric energy supply portfolio. Requirements of the renewable portfolio standard are:

(1) no later than January 1, 2015, renewable energy shall comprise no less than five percent of each distribution cooperative's total retail sales to New Mexico customers;

(2) the renewable portfolio standard shall increase by one percent per year thereafter until January 1, 2020, at which time the renewable portfolio standard shall be ten percent of the distribution cooperative's total retail sales to New Mexico customers;

(3) the renewable portfolio standard of each distribution cooperative shall be diversified as to the type of renewable energy resource, taking into consideration the overall reliability, availability, dispatch flexibility and the cost of the various renewable energy resources made available to the distribution cooperative by its suppliers of electric power; and

(4) renewable energy resources that are in a distribution cooperative's energy supply portfolio on January 1, 2008 shall be counted in determining compliance with this section.

B. If a distribution cooperative determines that, in any given year, the cost of renewable energy that would need to be procured or generated for purposes of compliance with the renewable portfolio standard would be greater than the reasonable

cost threshold, the distribution cooperative shall not be required to incur that cost; provided that the existence of this condition excusing performance in any given year shall not operate to delay any renewable portfolio standard in subsequent years. For purposes of the Rural Electric Cooperative Act, "reasonable cost threshold" means an amount that shall be no greater than one percent of the distribution cooperative's gross receipts from business transacted in New Mexico for the preceding calendar year.

C. By March 1 of each year, a distribution cooperative shall file with the public regulation commission a report on its purchases and generation of renewable energy during the preceding calendar year. The report shall include the cost of the renewable energy resources purchased and generated by the distribution cooperative to meet the renewable portfolio standard.

D. A distribution cooperative shall report to its membership a summary of its purchases and generation of renewable energy during the preceding calendar year."

## **Chapter 4 Section 2 Laws 2007**

Section 2. A new section of the Rural Electric Cooperative Act is enacted to read:

"RENEWABLE ENERGY CERTIFICATES--COMMISSION DUTIES.-- The public regulation commission shall establish:

A. a system of renewable energy certificates that can be used by a distribution cooperative to establish compliance with the renewable portfolio standard and that may include certificates that are monitored, accounted for or transferred by or through a regional system or trading program for any region in which a rural electric cooperative is located. The kilowatt-hour value of renewable energy certificates may be varied by renewable energy resource or technology; provided that each renewable energy certificate shall have a minimum value of one kilowatt-hour for purposes of compliance with the renewable portfolio standard; and

B. requirements and procedures concerning renewable energy certificates that include the provisions that:

(1) renewable energy certificates:

(a) are owned by the generator of the renewable energy unless: 1) the renewable energy certificates are transferred to the purchaser of the energy through specific agreement with the generator; 2) the generator is a qualifying facility, as defined by the federal Public Utility Regulatory Policies Act of 1978, in which case the renewable energy certificates are owned by the distribution cooperative purchaser of the renewable energy unless retained by the generator through specific agreement with the distribution cooperative purchaser of the energy; or 3) a contract for the purchase of renewable energy is in effect prior to January 1, 2004, in which case the renewable

energy certificates are owned by the purchaser of the energy for the term of such contract;

(b) may be traded, sold or otherwise transferred by their owner to any other party; provided that the transfers and use of the certificate by a distribution cooperative for compliance with the renewable energy portfolio standard shall require the electric energy represented by the certificate to be contracted for delivery or consumed, or generated by an end-use customer of the distribution cooperative in New Mexico unless the commission determines that the distribution cooperative is participating in a national or regional market for exchanging renewable energy certificates;

(c) that are used for the purpose of meeting the renewable portfolio standard shall be registered, beginning January 1, 2008, with a renewable energy generation information system that is designed to create and track ownership of renewable energy certificates and that, through the use of independently audited generation data, verifies the generation and delivery of electricity associated with each renewable energy certificate and protects against multiple counting of the same renewable energy certificate;

(d) that are used once by a distribution cooperative to satisfy the renewable portfolio standard and are retired or that are traded, sold or otherwise transferred by the distribution cooperative shall not be further used by the distribution cooperative; and

(e) that are not used by a distribution cooperative to satisfy the renewable portfolio standard or that are not traded, sold or otherwise transferred by the distribution cooperative may be carried forward for up to four years from the date of issuance and, if not used by that time, shall be retired by the distribution cooperative; and

(2) a distribution cooperative shall be responsible for demonstrating that a renewable energy certificate used for compliance with the renewable portfolio standard is derived from eligible renewable energy resources and has not been retired, traded, sold or otherwise transferred to another party."

## **Chapter 4 Section 3 Laws 2007**

Section 3. A new section of the Rural Electric Cooperative Act is enacted to read:

"RENEWABLE ENERGY AND CONSERVATION FEE.--

A. A distribution cooperative may collect from its customers a renewable energy and conservation fee of no more than one percent of the customer's bill. In no event shall a distribution cooperative collect more than seventy-five thousand dollars (\$75,000) annually through the renewable energy and conservation fee from any single customer. Money collected through the renewable energy and conservation fee shall be

segregated in a separate renewable energy and conservation account from other distribution cooperative funds and shall be expended only on programs or projects to promote the use of renewable energy, load management or energy efficiency. A distribution cooperative that collects a renewable energy and conservation fee from its customers shall report to the public regulation commission by March 1 of the following year the following information:

(1) the amount of money collected through the renewable energy and conservation fee in the previous calendar year;

(2) the programs or projects on which the funds collected were expended; and

(3) the determination of the distribution cooperative as to whether and in what amount to assess a renewable energy and conservation fee in the next calendar year.

B. Each distribution cooperative that collects a renewable energy and conservation fee from its customers shall deduct from the fees paid to the state pursuant to Section 62-8-8 NMSA 1978 an amount equal to fifty percent of the amount of money collected through the renewable energy and conservation fee during the preceding calendar year. The money shall be included in the account with other money from the renewable energy and conservation fee and expended only on programs or projects to promote the use of renewable energy, load management or energy efficiency."

## **Chapter 4 Section 4 Laws 2007**

Section 4. A new section of the Rural Electric Cooperative Act is enacted to read:

" DEFINITIONS--ENERGY EFFICIENCY--RENEWABLE ENERGY.--As used in the Rural Electric Cooperative Act:

A. "energy efficiency" means measures, including energy conservation measures, or programs that target consumer behavior, equipment or devices to result in a decrease in consumption of electricity without reducing the amount or quality of energy services; and

B. "renewable energy" means electric energy:

(1) generated by use of low- or zero-emissions generation technology with substantial long-term production potential; and

(2) generated by use of renewable energy resources that may include:

(a) solar, wind and geothermal resources;

(b) hydropower facilities brought in service after July 1, 2007;

(c) fuel cells that are not fossil fueled; and

(d) biomass resources, such as agriculture or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass; but

(3) does not include electric energy generated by use of fossil fuel or nuclear energy."

## **Chapter 4 Section 5 Laws 2007**

Section 5. Section 62-16-1 NMSA 1978 (being Laws 2004, Chapter 65, Section 1) is amended to read:

"62-16-1. SHORT TITLE.--Chapter 62, Article 16 NMSA 1978 may be cited as the "Renewable Energy Act"."

## **Chapter 4 Section 6 Laws 2007**

Section 6. Section 62-16-2 NMSA 1978 (being Laws 2004, Chapter 65, Section 2) is amended to read:

"62-16-2. FINDINGS AND PURPOSES.--

A. The legislature finds that:

(1) the generation of electricity through the use of renewable energy presents opportunities to promote energy self-sufficiency, preserve the state's natural resources and pursue an improved environment in New Mexico;

(2) the use of renewable energy by public utilities subject to commission oversight in accordance with the Renewable Energy Act can bring significant economic benefits to New Mexico;

(3) public utilities should be required to include prescribed amounts of renewable energy in their electric energy supply portfolios for sales to retail customers in New Mexico by prescribed dates;

(4) public utilities should be able to recover their reasonable costs incurred to procure or generate energy from renewable energy resources used to meet the requirements of the Renewable Energy Act;

(5) a public utility should have incentives to go beyond the minimum requirements of the renewable portfolio standard;

(6) public utilities should not be required to acquire energy generated from renewable energy resources that could result in costs above a reasonable cost threshold; and

(7) it may serve the public interest for public utilities to participate in national or regional renewable energy trading.

B. The purposes of the Renewable Energy Act are to:

(1) prescribe the amounts of renewable energy resources that public utilities shall include in their electric energy supply portfolios for sales to retail customers in New Mexico by prescribed dates;

(2) allow public utilities to recover costs through the rate-making process incurred for procuring or generating renewable energy used to comply with the prescribed amount; and

(3) protect public utilities and their ratepayers from renewable energy costs that are above a reasonable cost threshold."

## **Chapter 4 Section 7 Laws 2007**

Section 7. Section 62-16-3 NMSA 1978 (being Laws 2004, Chapter 65, Section 3) is amended to read:

"62-16-3. DEFINITIONS.--As used in the Renewable Energy Act:

A. "commission" means the public regulation commission;

B. "municipality" means a municipal corporation, organized under the laws of the state, and H class counties;

C. "public utility" means an entity certified by the commission to provide retail electric service in New Mexico pursuant to the Public Utility Act but does not include rural electric cooperatives;

D. "reasonable cost threshold" means the cost established by the commission above which a public utility shall not be required to add renewable energy to its electric energy supply portfolio pursuant to the renewable portfolio standard;

E. "renewable energy" means electric energy:

(1) generated by use of low- or zero-emissions generation technology with substantial long-term production potential; and

(2) generated by use of renewable energy resources that may include:

- (a) solar, wind and geothermal resources;
- (b) hydropower facilities brought in service after July 1, 2007;
- (c) fuel cells that are not fossil fueled; and

(d) biomass resources, such as agriculture or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass; but

(3) does not include electric energy generated by use of fossil fuel or nuclear energy;

F. "renewable energy certificate" means a certificate or other record, in a format approved by the commission, that represents all the environmental attributes from one kilowatt-hour of electricity generation from a renewable energy resource;

G. "renewable portfolio standard" means the percentage of retail sales by a public utility to electric consumers in New Mexico that is required by the Renewable Energy Act to be supplied by renewable energy; and

H. "renewable purchased power agreement" means an agreement that binds an entity generating power from renewable energy resources to provide power at a specified price and binds a public utility to purchase the power at that price."

## **Chapter 4 Section 8 Laws 2007**

Section 8. Section 62-16-4 NMSA 1978 (being Laws 2004, Chapter 65, Section 4) is amended to read:

### **"62-16-4. RENEWABLE PORTFOLIO STANDARD.--**

A. A public utility shall meet the renewable portfolio standard requirements, as provided in this section, to include renewable energy in its electric energy supply portfolio. Requirements of the renewable portfolio standard are:

(1) for public utilities other than rural electric cooperatives and municipalities:

(a) no later than January 1, 2006, renewable energy shall comprise no less than five percent of each public utility's total retail sales to New Mexico customers;

(b) no later than January 1, 2011, renewable energy shall comprise no less than ten percent of each public utility's total retail sales to New Mexico customers;

(c) no later than January 1, 2015, renewable energy shall comprise no less than fifteen percent of each public utility's total retail sales to New Mexico customers; and

(d) no later than January 1, 2020, renewable energy shall comprise no less than twenty percent of each public utility's total retail sales to New Mexico customers;

(2) the renewable portfolio standard established by this section shall be reduced, as necessary, to provide for the following specific procurement requirements for nongovernmental customers at a single location or facility, regardless of the number of meters at that location or facility, with consumption exceeding ten million kilowatt-hours per year. On and after January 1, 2006, the kilowatt-hours of renewable energy procured for these customers shall be limited so that the additional cost of the renewable portfolio standard to each customer does not exceed the lower of one percent of that customer's annual electric charges or forty-nine thousand dollars (\$49,000). This procurement limit criteria shall increase by one-fifth percent or ten thousand dollars (\$10,000) per year until January 1, 2011, when the procurement limit criteria shall remain fixed at the lower of two percent of that customer's annual electric charges or ninety-nine thousand dollars (\$99,000). After January 1, 2012, the commission may adjust the ninety-nine-thousand-dollar (\$99,000) limit for inflation. Nothing contained in this paragraph shall be construed as affecting a public utility's right to recover all reasonable costs of complying with the renewable portfolio standard, pursuant to Section 62-16-6 NMSA 1978. The commission may authorize deferred recovery of the costs of complying with the renewable portfolio standard, including carrying charges;

(3) the renewable portfolio shall be diversified as to the type of renewable energy resource, taking into consideration the overall reliability, availability, dispatch flexibility and cost of the various renewable energy resources made available by suppliers and generators;

(4) upon a commission motion or application by a public utility, the commission shall open a docket to provide appropriate performance-based financial or other incentives to encourage public utilities to acquire renewable energy supplies that exceed the applicable annual renewable portfolio standard set forth in this section. The commission shall initiate rules by June 1, 2008 to implement this subsection; and

(5) renewable energy resources that are in a public utility's electric energy supply portfolio on July 1, 2004 shall be counted in determining compliance with this section.

B. If a public utility finds that, in any given year, the cost of renewable energy that would need to be procured or generated for purposes of compliance with the renewable portfolio standard would be greater than the reasonable cost threshold as established by the commission pursuant to this section, the public utility shall not be required to incur that cost; provided that the existence of this condition excusing performance in

any given year shall not operate to delay the annual increases in the renewable portfolio standard in subsequent years. When a public utility can generate or procure renewable energy at or below the reasonable cost threshold, it shall be required to add renewable energy resources to meet the renewable portfolio standard applicable in the year when the renewable energy resources are being added.

C. By December 31, 2004, the commission shall establish, after notice and hearing, the reasonable cost threshold above which level a public utility shall not be required to add renewable energy to its electric energy supply portfolio pursuant to the renewable portfolio standard. The commission may thereafter modify the reasonable cost threshold as changing circumstances warrant, after notice and hearing. In establishing and modifying the reasonable cost threshold, the commission shall take into account:

- (1) the price of renewable energy at the point of sale to the public utility;
- (2) the transmission and interconnection costs required for the delivery of renewable energy to retail customers;
- (3) the impact of the cost for renewable energy on overall retail customer rates;
- (4) the overall diversity, reliability, availability, dispatch flexibility, cost per kilowatt-hour and life-cycle cost on a net present value basis of renewable energy resources available from suppliers; and
- (5) other factors, including public benefits, that the commission deems relevant; provided that nothing in the Renewable Energy Act shall be construed to permit regulation by the commission of the production or sale price at the point of production of the renewable energy.

D. By September 1, 2007 and July 1 of each year thereafter until 2022, and thereafter as determined necessary by the commission, a public utility shall file a report to the commission on its procurement and generation of renewable energy during the prior calendar year and a procurement plan that includes:

- (1) the cost of procurement for any new renewable energy resource in the next calendar year required to comply with the renewable portfolio standard; and
- (2) testimony and exhibits that demonstrate that the proposed procurement is reasonable as to its terms and conditions considering price, availability, dispatchability, any renewable energy certificate values and diversity of the renewable energy resource; or
- (3) demonstration that the plan is otherwise in the public interest.

E. The commission shall approve or modify a public utility's procurement or transitional procurement plan within ninety days and may approve the plan without a hearing, unless a protest is filed that demonstrates to the commission's reasonable satisfaction that a hearing is necessary. The commission may modify a plan after notice and hearing. The commission may, for good cause, extend the time to approve a procurement plan for an additional ninety days. If the commission does not act within the ninety-day period, the procurement plan is deemed approved.

F. The commission may reject a procurement or transitional procurement plan if it finds that the plan does not contain the required information and, upon the rejection, may suspend the public utility's obligation to procure additional resources for the time necessary to file a revised plan; provided that the total amount of renewable energy to be procured by the public utility shall not change.

G. A public utility may file a transitional procurement plan requesting that the commission determine that the costs of renewable energy resources that the public utility has committed to, or may commit to, prior to the commission's establishing a reasonable cost threshold, are reasonable and recoverable pursuant to Section 62-16-6 NMSA 1978. The requirements of annual procurement plan filings shall be applicable to any transitional procurement plan filing pursuant to this section.

H. The commission shall determine if it is in the public interest for the commission to provide appropriate performance-based financial or other incentives to encourage public utilities to acquire renewable energy supplies in amounts that exceed the requirements of the renewable portfolio standard."

## **Chapter 4 Section 9 Laws 2007**

Section 9. Section 62-16-5 NMSA 1978 (being Laws 2004, Chapter 65, Section 5) is amended to read:

"62-16-5. RENEWABLE ENERGY CERTIFICATES--COMMISSION DUTIES.--  
The commission shall establish:

A. a system of renewable energy certificates that can be used by a public utility to establish compliance with the renewable portfolio standard and that may include certificates that are monitored, accounted for or transferred by or through a regional system or trading program for any region in which a public utility is located. The kilowatt-hour value of renewable energy certificates may be varied by renewable energy resource or technology; provided that each renewable energy certificate shall have a minimum value of one kilowatt-hour of renewable energy represented by the certificate for purposes of compliance with the renewable portfolio standard; and

B. requirements and procedures concerning renewable energy certificates that include the provisions that:

(1) renewable energy certificates:

(a) are owned by the generator of the renewable energy unless: 1) the renewable energy certificates are transferred to the purchaser of the energy through specific agreement with the generator; 2) the generator is a qualifying facility, as defined by the federal Public Utility Regulatory Policies Act of 1978, in which case the renewable energy certificates are owned by the public utility purchaser of the renewable energy unless retained by the generator through specific agreement with the public utility purchaser of the energy; or 3) a contract for the purchase of renewable energy is in effect prior to January 1, 2004, in which case the renewable energy certificates are owned by the purchaser of the energy for the term of such contract;

(b) may be traded, sold or otherwise transferred by their owner to any other party; provided that the transfers and use of the certificate by a public utility for compliance with the renewable energy portfolio standard shall require the electric energy represented by the certificate to be contracted for delivery, or consumed or generated by an end-use customer of the public utility in New Mexico unless the commission determines that there is a national or regional market for exchanging renewable energy certificates;

(c) that are used for the purpose of meeting the renewable portfolio standard shall be registered, beginning January 1, 2009, with a renewable energy generation information system that is designed to create and track ownership of renewable energy certificates and that, through the use of independently audited generation data, verifies the generation and delivery of electricity associated with each renewable energy certificate and protects against multiple counting of the same renewable energy certificate;

(d) that are used once by a public utility to satisfy the renewable portfolio standard and are retired or that are traded, sold or otherwise transferred by the public utility shall not be further used by the public utility; and

(e) that are not used by a public utility to satisfy the renewable portfolio standard or that are not traded, sold or otherwise transferred by the public utility may be carried forward for up to four years from the date of issuance and, if not used by that time, shall be retired by the public utility; and

(2) a public utility shall be responsible for demonstrating that a renewable energy certificate used for compliance with the renewable portfolio standard is derived from eligible renewable energy resources and has not been retired, traded, sold or otherwise transferred to another party."

## **Chapter 4 Section 10 Laws 2007**

Section 10. Section 62-16-6 NMSA 1978 (being Laws 2004, Chapter 65, Section 6) is amended to read:

"62-16-6. COST RECOVERY FOR RENEWABLE ENERGY.--

A. A public utility that procures or generates renewable energy shall recover, through the rate-making process, the reasonable costs of complying with the renewable portfolio standard. Costs that are consistent with commission approval of procurement plans or transitional procurement plans shall be deemed to be reasonable.

B. The commission shall not exclude from such recovery reasonable interconnection and transmission costs incurred by the public utility in order to deliver renewable energy to retail New Mexico customers.

C. Upon a commission motion or application by a public utility, the commission shall open a docket to provide appropriate performance-based financial or other incentives to encourage public utilities to acquire renewable energy supplies that exceed the applicable annual renewable portfolio standard pursuant to the Renewable Energy Act. The commission shall initiate rules by June 1, 2008 to implement this subsection."

## **Chapter 4 Section 11 Laws 2007**

Section 11. Section 62-16-8 NMSA 1978 (being Laws 2004, Chapter 65, Section 8) is amended to read:

"62-16-8. RURAL ELECTRIC COOPERATIVE--VOLUNTARY TARIFFS.--

A. The commission may require that a rural electric cooperative:

(1) offer its retail customers a voluntary program for purchasing renewable energy under rates and terms that are approved by the commission, but only to the extent that the cooperative's suppliers make renewable energy available under wholesale power contracts;

(2) report to the commission the demand for renewable energy pursuant to a voluntary program; and

(3) comply with the requirements for the procurement of renewable energy set forth in the Rural Electric Cooperative Act.

B. The commission shall establish and amend rules and regulations for the implementation of renewable portfolio standards consistent with the Rural Electric Cooperative Act."

## **Chapter 4 Section 12 Laws 2007**

Section 12. Section 62-17-1 NMSA 1978 (being Laws 2005, Chapter 341, Section 1) is amended to read:

"62-17-1. SHORT TITLE.--Chapter 62, Article 17 NMSA 1978 may be cited as the "Efficient Use of Energy Act"."

## **Chapter 4 Section 13 Laws 2007**

Section 13. Section 62-17-5 NMSA 1978 (being Laws 2005, Chapter 341, Section 5) is amended to read:

"62-17-5. COMMISSION APPROVAL--ENERGY EFFICIENCY AND LOAD MANAGEMENT PROGRAMS--DISINCENTIVES.--

A. Pursuant to the findings and purpose of the Efficient Use of Energy Act, the commission shall consider public utility investments in cost-effective energy efficiency and load management to be an acceptable use of ratepayer money.

B. The commission shall direct public utilities to evaluate and implement cost-effective programs that reduce energy demand and consumption.

C. Before the commission approves an energy efficiency and load management program for a public utility, it must find that the portfolio of programs is cost-effective and designed to provide every affected customer class with the opportunity to participate and benefit economically. The commission shall determine the cost-effectiveness of energy efficiency and load management measures using the total resource cost test.

D. The commission shall act expeditiously on public utility requests for approval of energy efficiency or load management programs.

E. Public utilities shall obtain commission approval of energy efficiency and load management programs before they are implemented. Public utilities proposing new energy efficiency and load management programs shall, before seeking commission approval, solicit nonbinding recommendations on the design and implementation of the programs from commission staff, the attorney general, the energy, minerals and natural resources department and other interested parties.

F. The commission shall, upon petition or its own motion, open a docket to identify any disincentives or barriers that may exist for public utility expenditures on energy efficiency and load management measures and, if found, ensure that they are eliminated and that an appropriate ratemaking treatment and performance-based, financial or other incentives are considered in order that public utilities are financially neutral in their preference for acquiring demand- or supply-side utility resources.

G. Public utilities shall set a goal of at least five percent reduction by January 1, 2020 in total retail sales to New Mexico customers, adjusted for load growth."

## **Chapter 4 Section 14 Laws 2007**

Section 14. Section 62-17-6 NMSA 1978 (being Laws 2005, Chapter 341, Section 6) is amended to read:

"62-17-6. COST RECOVERY.--

A. A public utility that undertakes cost-effective energy efficiency and load management programs shall recover the costs of all the programs implemented after the effective date of the Efficient Use of Energy Act through an approved tariff rider. Program costs may be deferred for future recovery through creation of a regulatory asset, provided that the deferred recovery does not cause the tariff rider to exceed the limits imposed by this section. The tariff rider for any utility customer shall not exceed the lower of the commission's approved tariff for that customer's bill or seventy-five thousand dollars (\$75,000) per year except that, upon application by a public utility with the advice and consent of the entity designated by law to represent residential and commercial utility customers, the commission may approve a tariff rider in excess of the commission's approved tariff for customers other than large customers and may approve a tariff rider in excess of the lower of the commission's approved tariff or seventy-five thousand dollars (\$75,000) per year for a large customer that consents to such a rider. The commission shall approve such applications upon finding that the proposed energy efficiency and load management programs are cost-effective and that the cost recovery proposal is just and reasonable.

B. The tariff rider shall provide for the recovery, on a monthly basis or otherwise, of all reasonable costs of approved energy efficiency and load management programs.

C. A tariff rider proposed by a public utility to fund approved energy efficiency and load management programs shall go into effect thirty days after filing, unless suspended by the commission for a period not to exceed one hundred eighty days. If the tariff rider is not approved or suspended within thirty days after filing, it shall be deemed approved as a matter of law. If the commission has not acted to approve or disapprove the tariff rider by the end of an ordered suspension period, it shall be deemed approved as a matter of law. The commission shall approve utility reconciliations of the tariff rider annually based upon recovery of the reasonable costs of the utility's programs.

D. The commission shall ensure that there are no cross-subsidies between a public utility's energy efficiency and load management activities and the public utility's supply-side activities and shall ensure that the existence of a tariff rider does not permit a public utility to earn an excessive rate of return."

## **Chapter 4 Section 15 Laws 2007**

Section 15. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Corporations and Transportation Committee Substitute for

Senate Bill 418, Approved March 5, 2007

## **LAWS 2007, CHAPTER 5**

AN ACT

RELATING TO THE PRODUCTION OF OIL AND GAS; ENACTING THE SURFACE OWNERS PROTECTION ACT; STATING CERTAIN DUTIES OWED BY OIL AND GAS OPERATORS TO SURFACE OWNERS; REQUIRING NOTICE TO THE SURFACE OWNER OF OIL AND GAS OPERATIONS; REQUIRING A BOND OR OTHER SURETY IN CERTAIN CIRCUMSTANCES; PROVIDING FOR THE AWARD OF TREBLE DAMAGES IN CERTAIN CIRCUMSTANCES.

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

### **Chapter 5 Section 1 Laws 2007**

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

### **Chapter 5 Section 2 Laws 2007**

Section 2. APPLICABILITY.--The Surface Owners Protection Act applies to:

- A. private fee surface land; and
- B. leasehold interests in any land on which oil and gas operations are conducted when the tenant incurs damages to leasehold improvements as a result of oil and gas operations.

### **Chapter 5 Section 3 Laws 2007**

Section 3. DEFINITIONS.--As used in the Surface Owners Protection Act:

- A. "oil and gas operations" means all activities affecting the surface owner's land that are associated with exploration, drilling or production of oil or gas, through final reclamation of the affected surface;
- B. "operator" means a person with the legal right to conduct oil and gas operations and includes the agents, employees and contractors of that person;

C. "reclaim" means to substantially restore the surface affected by oil and gas operations to the condition that existed prior to oil and gas operations, or as otherwise agreed to in writing by the operator and surface owner;

D. "surface owner" means a person who holds legal or equitable title, as shown in the records of the county clerk, to the surface of the real property on which the operator has the legal right to conduct oil and gas operations;

E. "surface use and compensation agreement" means an agreement between an operator and a surface owner specifying the rights and obligations of the surface owner and the operator concerning oil and gas operations; and

F. "tenant" means a person who occupies land or premises belonging to another in subordination to the owner's title and with the owner's assent, express or implied.

## **Chapter 5 Section 4 Laws 2007**

### Section 4. COMPENSATION FOR OIL AND GAS OPERATIONS.--

A. An operator shall compensate the surface owner for damages sustained by the surface owner, as applicable, for loss of agricultural production and income, lost land value, lost use of and lost access to the surface owner's land and lost value of improvements caused by oil and gas operations. The payments contemplated by this section only cover land affected by oil and gas operations.

B. An operator shall not be responsible for allocating compensation between the surface owner and any tenant, except that an operator shall compensate a tenant of the surface owner for any leasehold improvements damaged as a result of the operator's oil and gas operations if the improvements are approved and authorized by the surface owner. The compensation shall equal the cost of repairing or replacing the improvements.

C. An operator shall reclaim all the surface affected by the operator's oil and gas operations.

## **Chapter 5 Section 5 Laws 2007**

### Section 5. NOTICE OF OPERATIONS--PROPOSED SURFACE USE AND COMPENSATION AGREEMENT.--

A. Prior to initial entry upon the land for activities that do not disturb the surface, including inspections, staking, surveys, measurements and general evaluation of proposed routes and sites for oil and gas operations, the operator shall provide at least five business days' notice by certified mail or hand delivery to the surface owner.

B. No less than thirty days before first entering the surface of the land to conduct oil and gas operations, an operator shall, by certified mail or hand delivery, give the surface owner notice of the planned oil and gas operations. The notice shall include:

(1) sufficient disclosure of the planned oil and gas operations to enable the surface owner to evaluate the effect of the operations on the property;

(2) a copy of the Surface Owners Protection Act;

(3) the name, address, telephone number and, if available, facsimile number and electronic mail address of the operator and the operator's authorized representative; and

(4) a proposed surface use and compensation agreement addressing, at a minimum and to the extent known, the following issues:

(a) placement, specifications, maintenance and design of well pads, gathering pipelines and roads to be constructed for oil and gas operations;

(b) terms of ingress and egress upon the surface of the land for oil and gas operations;

(c) construction, maintenance and placement of all pits and equipment used or planned for oil and gas operations;

(d) use and impoundment of water on the surface of the land;

(e) removal and restoration of plant life;

(f) surface water drainage changes;

(g) actions to limit and effectively control precipitation runoff and erosion;

(h) control and management of noise, weeds, dust, traffic, trespass, litter and interference with the surface owner's use;

(i) interim and final reclamation;

(j) actions to minimize surface damages to the property;

(k) operator indemnification for injury to persons caused by the operator; and

(l) an offer of compensation for damages to the surface affected by oil and gas operations.

C. The notices required by this section shall be given to the surface owner at the address shown by the records of the county clerk at the time the notice is given. If legal title and equitable title are not held by the same person, notice shall be given to both the holder of legal title and to the holder of equitable title at the addresses shown by the records of the county clerk at the time the notice is given.

D. Upon receipt of the notice required by Subsection B of this section, the surface owner may:

(1) accept the proposed surface use and compensation agreement within twenty days; or

(2) reject the proposed surface use and compensation agreement; provided that, failure to accept the proposed agreement within twenty days shall be deemed to be a rejection by the surface owner. If the proposed agreement is rejected, the surface owner may enter into negotiations with the operator, including, if the parties agree, binding arbitration or mediation.

E. Notices required by the Surface Owners Protection Act shall be deemed to have been received five days after mailing by certified mail or immediately upon hand delivery.

F. The operator and the surface owner may enter into a mutually acceptable agreement that sets forth the rights and obligations of the parties with respect to the surface activities conducted by the operator.

## **Chapter 5 Section 6 Laws 2007**

Section 6. ENTRY WITHOUT AGREEMENT--BOND.--If, after thirty days from a surface owner receiving notice pursuant to Subsection B of Section 4 of the Surface Owners Protection Act, no surface use and compensation agreement has been entered into, the operator may enter the surface owner's property and conduct oil and gas operations:

A. after depositing a surety bond, letter of credit from a banking institution, cash or a certificate of deposit with a New Mexico surety company or financial institution for the benefit of the surface owner in the amount of ten thousand dollars (\$10,000) per well location. The surety bond, letter of credit, cash or certificate of deposit shall only be released by the surety company or financial institution if:

(1) the surface owner provides notice that compensation for damages has been paid;

(2) the surface owner and the operator have executed a surface use and compensation agreement or otherwise agreed that the security should be released;

(3) there has been a final resolution of the judicial appeal in any action for damages and any awarded damages have been paid; or

(4) all wells have been plugged and abandoned and the operator has not conducted oil and gas operations on the surface owner's property for a period of six years; or

B. after posting a blanket surety bond, letter of credit from a banking institution, cash or a certificate of deposit with a New Mexico surety company or financial institution in the sum of twenty-five thousand dollars (\$25,000) subject to the following criteria:

(1) the surety company or financial institution shall hold the corporate surety bond, letter of credit, cash or certificate of deposit for the benefit of the surface owners of this state and shall ensure that such security is in a form readily payable to a surface owner awarded damages in an action brought pursuant to the Surface Owners Protection Act;

(2) the bond, letter of credit, cash or certificate of deposit shall remain in full force and effect as long as the operator continues oil and gas operations in New Mexico;

(3) the bond, letter of credit, cash or certificate of deposit shall not be released until six years after the operator has deposited with the surety company or financial institution a certified statement from the oil conservation division of the energy, minerals and natural resources department that, according to the records of the division, the operator is not the operator of record of any well in New Mexico and does not hold any outstanding drilling permits in New Mexico; and

(4) in the event that, pursuant to a judgment, all or a portion of the bond, letter of credit, cash or certificate of deposit has been used to pay a surface owner, the operator shall immediately post additional security so that the total amount posted equals twenty-five thousand dollars (\$25,000) and, if the operator does not post the additional security, the surety or financial institution shall publish notice to that effect in a paper of general circulation in each county of the state in which oil or gas is produced.

## **Chapter 5 Section 7 Laws 2007**

Section 7. DAMAGES.--In an action brought pursuant to the Surface Owners Protection Act, if the court finds that compensation is owed under Section 3 of the Surface Owners Protection Act, the court may also award the prevailing party:

A. attorney fees and costs if:

(1) the operator conducted oil and gas operations without providing notice as required by Subsection B of Section 4 of the Surface Owners Protection Act;

(2) the operator conducted oil and gas operations without a surface use and compensation agreement and before depositing a bond or other surety as required by Section 5 of the Surface Owners Protection Act;

(3) the operator conducted oil and gas operations outside the scope of a surface use and compensation agreement and, when entering into the agreement, knew or should have known that oil and gas operations would be conducted outside the scope of the agreement; or

(4) the surface owner failed to exercise good faith in complying with the provisions of the Surface Owners Protection Act or the terms of a surface use and compensation agreement; or

B. attorney fees, costs and treble damages if the court finds, by clear and convincing evidence, that:

(1) the operator willfully and knowingly entered upon the premises for the purpose of commencing the drilling of a well:

(a) without giving notice of the entry as required by Subsection B of Section 4 of the Surface Owners Protection Act; or

(b) without a surface use and compensation agreement with the surface owner and before depositing a bond or other surety pursuant to Section 5 of the Surface Owners Protection Act; or

(2) either the surface owner or the operator willfully and knowingly violated the surface use and compensation agreement.

## **Chapter 5 Section 8 Laws 2007**

Section 8. REMEDIES NOT EXCLUSIVE.--The remedies provided by the Surface Owners Protection Act are not exclusive and do not preclude a person from seeking other remedies allowed by law.

## **Chapter 5 Section 9 Laws 2007**

Section 9. EMERGENCY SITUATIONS.--Notwithstanding any provisions of the Surface Owners Protection Act to the contrary, no notice, surface use and compensation agreement or bond shall be required in emergency situations for activities to protect health, safety or the environment.

## **Chapter 5 Section 10 Laws 2007**

Section 10. TEMPORARY PROVISION--APPLICABILITY.--The provisions of the Surface Owners Protection Act apply to all oil and gas operations commenced on or after July 1, 2007 except:

A. maintenance and ongoing production activities related to an oil or gas well producing or capable of producing oil or gas on June 30, 2007 for which the operator has a valid permit from the oil conservation division of the energy, minerals and natural resources department, provided that:

(1) reentries, workovers and other oil or gas operations are subject to that act if the activities disturb additional surface; and

(2) the duty to reclaim, as stated in Subsection C of Section 3 of that act, is applicable to such a well that is not plugged and abandoned on July 1, 2007; and

B. oil and gas operations conducted within the scope of an agreement, entered into prior to July 1, 2007, between a surface owner and an operator that sets forth the rights and obligations of the parties with respect to surface activities conducted by the operator.

## **Chapter 5 Section 11 Laws 2007**

Section 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill HB 827, as amended

Approved March 8, 2007

## **LAWS 2007, CHAPTER 6**

AN ACT

RELATING TO ANIMALS; PROHIBITING COCKFIGHTING; CHANGING PENALTIES.

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

## **Chapter 6 Section 1 Laws 2007**

Section 1. Section 30-18-1 NMSA 1978 (being Laws 1999, Chapter 107, Section 1, as amended) is amended to read:

"30-18-1. CRUELTY TO ANIMALS--EXTREME CRUELTY TO ANIMALS--  
PENALTIES--EXCEPTIONS.--

A. As used in this section, "animal" does not include insects or reptiles.

B. Cruelty to animals consists of a person:

(1) negligently mistreating, injuring, killing without lawful justification or tormenting an animal; or

(2) abandoning or failing to provide necessary sustenance to an animal under that person's custody or control.

C. As used in Subsection B of this section, "lawful justification" means:

(1) humanely destroying a sick or injured animal; or

(2) protecting a person or animal from death or injury due to an attack by another animal.

D. Whoever commits cruelty to animals is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978. Upon a fourth or subsequent conviction for committing cruelty to animals, the offender is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

E. Extreme cruelty to animals consists of a person:

(1) intentionally or maliciously torturing, mutilating, injuring or poisoning an animal; or

(2) maliciously killing an animal.

F. Whoever commits extreme cruelty to animals is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

G. The court may order a person convicted for committing cruelty to animals to participate in an animal cruelty prevention program or an animal cruelty education program. The court may also order a person convicted for committing cruelty to animals or extreme cruelty to animals to obtain psychological counseling for treatment of a mental health disorder if, in the court's judgment, the mental health disorder contributed to the commission of the criminal offense. The offender shall bear the expense of participating in an animal cruelty prevention program, animal cruelty education program or psychological counseling ordered by the court.

H. If a child is adjudicated of cruelty to animals, the court shall order an assessment and any necessary psychological counseling or treatment of the child.

I. The provisions of this section do not apply to:

(1) fishing, hunting, falconry, taking and trapping, as provided in Chapter 17 NMSA 1978;

(2) the practice of veterinary medicine, as provided in Chapter 61, Article 14 NMSA 1978;

(3) rodent or pest control, as provided in Chapter 77, Article 15 NMSA 1978;

(4) the treatment of livestock and other animals used on farms and ranches for the production of food, fiber or other agricultural products, when the treatment is in accordance with commonly accepted agricultural animal husbandry practices;

(5) the use of commonly accepted Mexican and American rodeo practices, unless otherwise prohibited by law;

(6) research facilities licensed pursuant to the provisions of 7 U.S.C. Section 2136, except when knowingly operating outside provisions, governing the treatment of animals, of a research or maintenance protocol approved by the institutional animal care and use committee of the facility; or

(7) other similar activities not otherwise prohibited by law.

J. If there is a dispute as to what constitutes commonly accepted agricultural animal husbandry practices or commonly accepted rodeo practices, the New Mexico livestock board shall hold a hearing to determine if the practice in question is a commonly accepted agricultural animal husbandry practice or commonly accepted rodeo practice."

## **Chapter 6 Section 2 Laws 2007**

Section 2. Section 30-18-9 NMSA 1978 (being Laws 1981, Chapter 30, Section 1) is amended to read:

"30-18-9. DOG FIGHTING AND COCKFIGHTING--PENALTY.--

A. It is unlawful for any person to cause, sponsor, arrange, hold or participate in a fight between dogs or cocks for the purpose of monetary gain or entertainment. Participation in a fight between dogs or cocks for the purpose of monetary gain or entertainment consists of an adult knowingly:

(1) being present at a dog fight without attempting to interfere with or stop the contest; or

(2) owning or equipping one of the participating dogs or cocks with knowledge of the contest.

B. It is unlawful to train, equip or sponsor a dog or cock for the purpose of having it participate in a fight with another dog or cock, respectively, for monetary gain or entertainment.

C. Any person violating the provisions of Subsection A or B of this section, as it pertains to dogs, is guilty of a fourth degree felony.

D. Any person violating the provisions of Subsection A or B of this section as it pertains to cocks:

(1) upon a first conviction, is guilty of a petty misdemeanor;

(2) upon a second conviction, is guilty of a misdemeanor; and

(3) upon a third or subsequent conviction, is guilty of a fourth degree felony."

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Senate Bill 10, as amended

Approved March 12, 2007

## **LAWS 2007, CHAPTER 7**

### **AN ACT**

RELATING TO WATER; AMENDING A SECTION OF THE WATER PROJECT FINANCE ACT TO PROVIDE FOR MEMBERSHIP ON THE WATER TRUST BOARD OF THE SECRETARY OF FINANCE AND ADMINISTRATION AND TO PROVIDE FOR ELECTION OF THE CHAIR OF THE BOARD.

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

### **Chapter 7 Section 1 Laws 2007**

Section 1. Section 72-4A-4 NMSA 1978 (being Laws 2001, Chapter 164, Section 4) is amended to read:

"72-4A-4. WATER TRUST BOARD CREATED.--

A. The "water trust board" is created. The board is composed of the following sixteen members:

- (1) the state engineer or the state engineer's designee;
- (2) the secretary of finance and administration or the secretary's designee;
- (3) the executive director of the New Mexico finance authority or the executive director's designee;
- (4) the secretary of environment or the secretary's designee;
- (5) the secretary of energy, minerals and natural resources or the secretary's designee;
- (6) the director of the department of game and fish or the director's designee;
- (7) the director of the New Mexico department of agriculture or the director's designee;
- (8) the executive director of the New Mexico municipal league or the executive director's designee;
- (9) the executive director of the New Mexico association of counties or the executive director's designee;
- (10) five public members appointed by the governor and confirmed by the senate and who represent:
  - (a) the environmental community;
  - (b) an irrigation or conservancy district that uses surface water;
  - (c) an irrigation or conservancy district that uses ground water;
  - (d) acequia water users; and
  - (e) soil and water conservation districts;
- (11) one public member appointed by the Indian affairs commission; and
- (12) the president of the Navajo Nation or the president's designee.

B. The chair of the board shall be elected by a quorum of the board members. The board shall meet at the call of the chair or whenever three members submit a

request in writing to the chair, but not less often than once each calendar year. A majority of members constitutes a quorum for the transaction of business. The affirmative vote of at least a majority of a quorum present shall be necessary for an action to be taken by the board.

C. Each public member of the board appointed by the governor shall be appointed to a four-year term. To provide for staggered terms, two of the initially governor-appointed public members shall be appointed for terms of two years and three members for terms of four years. Thereafter, all governor-appointed members shall be appointed for four-year terms. Vacancies shall be filled by appointment by the governor for the remainder of the unexpired term.

D. Public members of the board shall be reimbursed for attending meetings of the board as provided for nonsalaried public officers in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

E. Public members of the board are appointed public officials of the state while carrying out their duties and activities under the Water Project Finance Act."

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House Bill 53, as amended

Approved March 13, 2007

## **LAWS 2007, CHAPTER 8**

### AN ACT

RELATING TO WILDLIFE; AMENDING SECTIONS OF THE NMSA 1978 TO PROVIDE FOR AN ADJUSTMENT TO ISSUANCE OF COMBINED HUNTING AND FISHING LICENSES.

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

### **Chapter 8 Section 1 Laws 2007**

Section 1. Section 17-3-2 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 2, as amended) is amended to read:

"17-3-2. CLASSES OF LICENSES.--

A. As used with reference to licenses in Chapter 17 NMSA 1978:

(1) "fishing" entitles the licensee to fish for game fish during the open seasons for each species;

(2) "small game" entitles the licensee to hunt game birds, other than wild turkey, and squirrel during the open seasons for each;

(3) "deer" entitles the licensee to hunt deer during the open season;

(4) "general hunting" entitles the licensee to hunt deer, squirrel and game birds during the open seasons for each;

(5) "general hunting and fishing" entitles the licensee to hunt deer, squirrel and game birds and to fish for game fish during the open seasons for each;

(6) "antelope" entitles the licensee to hunt antelope during the open season;

(7) "elk" entitles the licensee to hunt elk during the open season;

(8) "bighorn sheep" entitles the licensee to hunt bighorn sheep during the open season;

(9) "Barbary sheep" entitles the licensee to hunt Barbary sheep during the open season;

(10) "javelina" entitles the licensee to hunt javelina during the open season;

(11) "bear" entitles the licensee to hunt bear during the open season;

(12) "nongame" entitles the licensee to hunt or take any animal or bird not protected by law;

(13) "temporary fishing" entitles the licensee to fish for game fish during a specific period of time indicated on the license;

(14) "oryx" entitles the licensee to hunt oryx during the open season;

(15) "ibex" entitles the licensee to hunt ibex during the open season;

(16) "cougar" entitles the licensee to hunt cougar during the open season;

(17) "turkey" entitles the licensee to hunt turkey during the open season;

(18) "special season turkey" entitles the licensee to hunt turkey during special seasons designated by the state game commission;

(19) "quality elk" entitles the licensee to hunt elk during a special quality elk season, to be established by the state game commission, when the timing of the

season and hunter density is specially regulated and the elk population is managed with an intent to provide the licensee an increased opportunity to take a mature elk;

(20) "quality deer" entitles the licensee to hunt deer during a special quality deer season, to be established by the state game commission, when the timing of the season and hunter density is specially regulated and the deer population is managed with an intent to provide the licensee an increased opportunity to take a mature deer;

(21) "temporary small game" entitles the licensee to hunt game birds, except wild turkey, and squirrel during a specific period of time indicated on the license;

(22) "second rod" entitles the licensee to fish using two fishing rods to fish for game fish during the open seasons for each species; and

(23) "fishing and small game combination" entitles the licensee to hunt squirrel and game birds, other than wild turkey, and to fish for game fish during the open season for each.

B. A hunting license does not entitle the licensee to hunt, kill or take game animals or birds within or upon a park or enclosure licensed or posted as provided by law or within or upon a privately owned enclosure without consent of the owner or within or upon a game refuge or game management area.

C. A fishing license does not entitle the licensee to fish for or take fish within or upon a park or enclosure licensed or posted as provided by law or within or upon a privately owned enclosure without consent of the owner or in or on closed waters.

D. A junior fishing license may be purchased by a resident who has reached the age of twelve years but has not reached the age of eighteen years. A junior fishing license entitles the licensee to fish for game fish during the open season for each species.

E. A senior fishing license may be purchased by a resident who has reached the age of sixty-five years. A senior fishing license entitles the licensee to fish for game fish during the open season for each species.

F. A nonresident junior fishing license may be purchased by a nonresident who has reached the age of twelve years but has not reached the age of eighteen years. A nonresident junior fishing license entitles the licensee to fish for game fish during the open season for each species.

G. A senior general hunting license may be purchased by a resident who has reached the age of sixty-five years. A senior general hunting license entitles the licensee to hunt for deer, squirrel and game birds during the open seasons for each species.

H. A junior general hunting license may be purchased by a resident who has not reached the age of eighteen years. A junior general hunting license entitles the licensee to hunt for deer, squirrel and game birds during the open seasons for each species.

I. A handicapped fishing license may be purchased by a resident who has a severe physical impairment that substantially limits one or more major life activities and who can furnish adequate proof of this disability to the state game commission. A handicapped fishing license may be purchased by a resident who has a developmental disability as defined in Subsection H of Section 43-1-3 NMSA 1978 and who can furnish adequate proof of this disability to the state game commission. A handicapped fishing license entitles the licensee to fish for game fish during the open season for each species.

J. A handicapped general hunting license may be purchased by a resident who has a severe physical impairment that substantially limits one or more major life activities and who can furnish adequate proof of this disability to the state game commission. A handicapped general hunting license entitles the licensee to hunt for deer, squirrel and game birds during the open season for each species.

K. A fishing license may be obtained at no cost by a resident who has reached the age of seventy years.

L. A second rod validation may be purchased by either a resident or nonresident. A second rod validation entitles the licensee to fish using two rods for game fish during the open season for each species.

M. A junior-senior elk license may be purchased by a resident who has not reached the age of eighteen years or by a resident who has reached the age of sixty-five years. A junior-senior elk license entitles the licensee to hunt for elk during the open season for that species.

N. A junior-senior deer license may be purchased by a resident who is younger than eighteen years or older than sixty-five years. A junior-senior deer license entitles the licensee to hunt for deer during the open season for that species.

O. A junior-senior fishing and small game combination license may be purchased by a resident who is younger than eighteen years or older than sixty-five years. A junior-senior fishing and small game combination license entitles the licensee to fish for game fish or hunt for squirrel and game birds, other than wild turkey, during the open seasons for each species."

## **Chapter 8 Section 2 Laws 2007**

Section 2. Section 17-3-13 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 5, as amended) is amended to read:

"17-3-13. LICENSE FEES.--

A. The director of the department of game and fish shall keep a record of all money received and licenses and permits issued by the department, numbering each class separately. Upon satisfactory proof that a license or permit has been lost before its expiration, the director may issue a duplicate and collect a just and reasonable fee for it as determined by regulation of the state game commission.

B. The director of the department of game and fish shall collect the following fees for each license of the class indicated:

Resident, fishing	\$25.00
Resident, small game	20.00
Resident, deer	36.00
Resident, junior-senior, deer	24.00
Resident, general hunting	40.00
Resident, general hunting and fishing	59.00
Resident, senior, handicapped, general hunting and fishing	28.00
Resident, junior, general hunting and fishing	20.00
Resident, fishing and small game combination	33.00
Resident, junior-senior, fishing and small game combination	16.00
Resident, antelope	50.00
Resident, elk cow	50.00
Resident, elk bull or either sex	80.00
Resident, junior-senior, elk	48.00
Resident, bighorn sheep, ram	150.00

Resident, bighorn sheep, ewe	75.00
Resident, Barbary sheep	100.00
Resident, bear	44.00
Resident, turkey	25.00
Resident, cougar	40.00
Resident, oryx	150.00
Resident, ibex	100.00
Resident, javelina	55.00
Resident, fur dealer	15.00
Resident, trapper	20.00
Resident, junior trapper	9.00
Nonresident, fishing	56.00
Nonresident, junior fishing	28.00
Nonresident, small game	90.00
Nonresident, deer	260.00
Nonresident, quality deer	345.00
Nonresident, bear	250.00
Nonresident, cougar	280.00
Nonresident, turkey	100.00
Nonresident, antelope	260.00
Nonresident, elk cow	315.00
Nonresident, elk bull or either sex	525.00
Nonresident, quality elk	750.00

Nonresident, bighorn sheep	3,150.00
Nonresident, Barbary sheep	350.00
Nonresident, oryx	1,600.00
Nonresident, ibex	1,600.00
Nonresident, javelina	155.00
Nonresident, fur dealer	125.00
Nonresident, trapper	345.00
Nonresident, nongame	65.00
Resident, senior, handicapped, fishing	8.00
Resident, junior fishing	5.00
Temporary fishing, one day	12.00
Temporary fishing, five days	24.00
Resident, senior, handicapped, general hunting	24.00
Resident, junior general hunting	15.00
Temporary small game, four days	33.00
Second rod validation	4.00."

## **Chapter 8 Section 3 Laws 2007**

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is April 1, 2008.

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House Bill 56, as amended

Approved March 13, 2007

# **LAWS 2007, CHAPTER 9**

AN ACT

RELATING TO CRIMINAL JUSTICE; ADDING AN ADDITIONAL MEMBER TO THE NEW MEXICO SENTENCING COMMISSION.

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

## **Chapter 9 Section 1 Laws 2007**

Section 1. Section 9-3-1 NMSA 1978 (being Laws 1977, Chapter 257, Section 1, as amended) is amended to read:

"9-3-1. SHORT TITLE.--Chapter 9, Article 3 NMSA 1978 may be cited as the "Corrections Department Act"."

## **Chapter 9 Section 2 Laws 2007**

Section 2. Section 9-3-10 NMSA 1978 (being Laws 1977, Chapter 257, Section 11, as amended) is amended to read:

"9-3-10. NEW MEXICO SENTENCING COMMISSION--CREATION--MEMBERSHIP--DUTIES.--

A. There is created the "New Mexico sentencing commission".

B. The New Mexico sentencing commission shall be composed of twenty-four members. Appointed members shall serve at the pleasure of the appointing authority. The commission shall reflect reasonable geographical and urban-rural balances and regard for the incidence of crime and the distribution and concentration of law enforcement services in the state. The commission shall consist of the following individuals or their designees:

(1) the attorney general;

(2) a district attorney appointed by the district attorneys association of New Mexico;

(3) the chief public defender;

(4) two district court judges, one of whom shall be a children's court judge, appointed by the district court judge's association of New Mexico;

(5) a judge from the court of appeals appointed by the chief judge of the court of appeals;

(6) the dean of the university of New Mexico school of law;

(7) the secretary of corrections;

(8) the secretary of public safety;

(9) the secretary of children, youth and families;

(10) the secretary of public education;

(11) a county sheriff appointed by the executive director of the New Mexico association of counties;

(12) two public members appointed by the governor, one of whom shall be designated as chair of the New Mexico sentencing commission by the governor;

(13) three public members appointed by the president pro tempore of the senate;

(14) three public members appointed by the speaker of the house of representatives;

(15) two public members appointed by the chief justice of the supreme court;

(16) one public member who is Native American and a practicing attorney, appointed by the president of the state bar association; and

(17) one public member appointed by the governor who is a representative of a New Mexico victim organization.

C. A majority of the members of the New Mexico sentencing commission constitutes a quorum for the transaction of commission business.

D. The New Mexico sentencing commission shall:

(1) hold meetings at times and for periods as the commission deems necessary;

(2) hire staff as needed to assist the commission in the performance of its duties;

(3) prepare an annual budget;

(4) establish policies for the operation of the commission and supervision of the activities of commission staff;

(5) advise the executive, judicial and legislative branches of government on policy matters relating to criminal and juvenile justice;

(6) make recommendations to the legislature concerning proposed changes to laws relating to the criminal and juvenile justice systems that the commission determines would improve those systems;

(7) annually assess, monitor and report to the legislature on the impact of any enacted sentencing standards and guidelines on state and local correctional resources and programs and the need for further sentencing reform;

(8) when developing proposed sentencing reform:

(a) study sentencing models in other jurisdictions;

(b) study the Criminal Sentencing Act, the Criminal Code and all other New Mexico statutes relating to criminal law, criminal sentencing, criminal procedure and probation and parole;

(c) review past studies or reports regarding proposed changes to the Children's Code, the Criminal Code, the Criminal Sentencing Act or other New Mexico statutes relating to criminal law, criminal sentencing, criminal procedure or probation and parole;

(d) study past and current criminal sentencing and release practices and create a statistical database for simulating the impact of various sentencing policies;

(e) study the full range of prison, nonprison and intermediate sanctions;

(f) determine the principal purpose for criminal sanctions;

(g) rank criminal offenses by degree of seriousness;

(h) determine the role of criminal history in making criminal sentencing decisions;

(i) define dispositional policy that determines when adult felony offenders are confined in state prisons and county jails or sentenced to nonprison and intermediate sanctions;

(j) establish the length of criminal sentences;

(k) establish the appropriate use of community service and fines;

(l) structure proposed sentencing guidelines to ensure consistency in all aspects of criminal sentencing policy;

(m) assess the impact of commission recommendations to modify criminal sentencing policy on the availability of and need for correctional resources and programs;

(n) use the expertise of a national or state organization with experience in sentencing reform; and

(o) present proposed legislation or recommendations regarding sentencing reform to the appropriate legislative interim committee;

(9) monitor any enacted sentencing guidelines with respect to uniformity and proportionality;

(10) conduct research relating to the use and effectiveness of any enacted guidelines, prosecution standards, offense charging, plea bargaining, sentencing practices, probation and parole practices and any other matters relating to the criminal justice system;

(11) serve as a clearinghouse for the systematic collection, analysis and dissemination of information relating to felony offense charges, plea agreements, convictions, sentences imposed, incarceration time actually served and actual and projected inmate population in the state correctional system;

(12) review all proposed legislation that creates a new criminal offense, changes the classification of an offense or changes the range of punishments for an offense and make recommendations to the legislature as to whether proposed changes would improve the criminal and juvenile justice system; and

(13) contingent upon the availability of funding, provide impact estimates, incorporating prison population projections, on all proposed legislation that has the potential to affect correctional resources.

E. The members of the New Mexico sentencing commission shall be paid pursuant to the Per Diem and Mileage Act and shall receive no other perquisite, compensation or allowance.

F. The New Mexico sentencing commission is administratively attached to the office of the governor."

## **Chapter 9 Section 3 Laws 2007**

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 60

Approved March 13, 2007

## **LAWS 2007, CHAPTER 10**

AN ACT

RELATING TO STATE SYMBOLS; ADOPTING THE BOLO TIE AS THE OFFICIAL TIE OF NEW MEXICO; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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

### **Chapter 10 Section 1 Laws 2007**

Section 1. Section 12-3-4 NMSA 1978 (being Laws 1927, Chapter 102, Section 1, as amended by Laws 2005, Chapter 4, Section 1 and by Laws 2005, Chapter 254, Section 1) is amended to read:

"12-3-4. STATE FLOWER--STATE BIRD--STATE TREE--STATE FISH--STATE ANIMAL--STATE VEGETABLES--STATE GEM--STATE GRASS--STATE FOSSIL--STATE COOKIE--STATE INSECT--STATE QUESTION--STATE NICKNAME--STATE BUTTERFLY--STATE REPTILE--STATE AMPHIBIAN--STATE AIRCRAFT--STATE HISTORIC RAILROAD--STATE TIE.--

- A. The yucca flower is adopted as the official flower of New Mexico.
- B. The chaparral bird, commonly called roadrunner, is adopted as the official bird of New Mexico.
- C. The nut pine or pinon tree, scientifically known as *Pinus edulis*, is adopted as the official tree of New Mexico.
- D. The native New Mexico cutthroat trout is adopted as the official fish of New Mexico.
- E. The native New Mexico black bear is adopted as the official animal of New Mexico.

F. The chile, the Spanish adaptation of the chilli, and the pinto bean, commonly known as the frijol, are adopted as the official vegetables of New Mexico.

G. The turquoise is adopted as the official gem of New Mexico.

H. The blue grama grass, scientifically known as *Bouteloua gracillis*, is adopted as the official grass of New Mexico.

I. The *Coelophysis* is adopted as the official fossil of New Mexico.

J. The bizcochito is adopted as the official cookie of New Mexico.

K. The tarantula hawk wasp, scientifically known as *Pepsis formosa*, is adopted as the official insect of New Mexico.

L. "Red or green?" is adopted as the official question of New Mexico.

M. "The Land of Enchantment" is adopted as the official nickname of New Mexico.

N. The Sandia hairstreak is adopted as the official butterfly of New Mexico.

O. The New Mexico whiptail lizard, scientifically known as *Cnemidophorus neomexicanus*, is adopted as the official reptile of New Mexico.

P. The New Mexico spadefoot toad, scientifically known as *Spea multiplicata*, is adopted as the official amphibian of New Mexico.

Q. The hot air balloon is adopted as the official aircraft of New Mexico.

R. The Cumbres and Toltec scenic railroad is adopted as the official historic railroad of New Mexico.

S. The bolo tie is adopted as the official tie of New Mexico."

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House Bill 115

Approved March 13, 2007

## **LAWS 2007, CHAPTER 11**

AN ACT

RELATING TO MEDIATION; ENACTING THE MEDIATION PROCEDURES ACT;  
ESTABLISHING CONFIDENTIALITY FOR MEDIATION COMMUNICATIONS;  
PROVIDING EXCEPTIONS FOR DISCLOSURE OF MEDIATION COMMUNICATIONS.

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

### **Chapter 11 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "Mediation Procedures Act".

### **Chapter 11 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the Mediation Procedures Act:

A. "mediation" means a process in which a mediator:

(1) facilitates communication and negotiation between mediation parties to assist them in reaching an agreement regarding their dispute; or

(2) promotes reconciliation, settlement or understanding between and among parties;

B. "mediation communication" means a statement, whether oral or in a record or verbal or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing or reconvening a mediation or retaining a mediator;

C. "mediation party" means a person who participates in a mediation and whose agreement is necessary to resolve the dispute;

D. "mediation program" means a program that provides mediation services and is created or administered by a court or court agency, a government or governmental subdivision, agency or instrumentality of this state or a tribal court, government or agency;

E. "mediator" means an individual who:

(1) holds the individual's self out as a mediator and who conducts a mediation;

(2) the mediation parties agree to use as a mediator and who conducts a mediation;

(3) is designated by a mediation program as a mediator and who conducts a mediation; or

(4) is an observer who is permitted by the mediation parties to watch and listen to the mediation for educational or other administrative purposes;

F. "nonparty participant" means a person, other than a mediation party or mediator, who participates in, is present during the mediation or is a mediation program administrator, including a person consulted by a mediation party to assist the mediation party with evaluating, considering or generating offers of settlement;

G. "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government or governmental subdivision, agency or instrumentality, public corporation or any other legal or commercial entity;

H. "proceeding" means:

(1) arbitration or a judicial, administrative or other adjudicative process, including related pre-hearing and post-hearing motions, conferences and discovery; or

(2) a legislative hearing or similar process;

I. "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; and

J. "sign" means:

(1) to execute or adopt a tangible symbol with the present intent to authenticate a record or to ratify the agreement set forth in the record; or

(2) to attach or logically associate an electronic symbol, sound or process to or with a record with the present intent to authenticate a record or to ratify the agreement set forth in the record.

## **Chapter 11 Section 3 Laws 2007**

### **Section 3. SCOPE.--**

A. Except as otherwise provided in Subsection B of this section, the Mediation Procedures Act applies to all mediators, nonparty participants, mediation parties and a mediation in which:

(1) the mediation parties are required to mediate by statute or court or administrative agency rule or are referred to mediation by a court, administrative agency or arbitrator; or

(2) the mediation parties and the mediator agree to mediate and the agreement to mediate is evidenced by a record that is signed by the mediation parties.

B. The Mediation Procedures Act does not apply to a mediation:

(1) relating to the establishment, negotiation, administration or termination of a collective bargaining relationship;

(2) relating to a dispute that is pending pursuant to or is part of the processes established by a collective bargaining agreement, except that the Mediation Procedures Act applies to a mediation arising out of a dispute that has been filed with an administrative agency or court;

(3) conducted by a judge who might make a ruling on the case; or

(4) agreed to in writing by the mediation parties and the mediator prior to the mediation not to be covered by the Mediation Procedures Act, declared in writing by a mediation program prior to the mediation or declared in writing by a court or court agency, a government or governmental subdivision, agency or instrumentality of this state or a tribal court, government or agency prior to the mediation not to be covered by the Mediation Procedures Act.

## **Chapter 11 Section 4 Laws 2007**

Section 4. CONFIDENTIALITY.--Except as otherwise provided in the Mediation Procedures Act or by applicable judicial court rules, all mediation communications are confidential, and not subject to disclosure and shall not be used as evidence in any proceeding.

## **Chapter 11 Section 5 Laws 2007**

Section 5. EXCEPTIONS--ADMISSIBILITY--DISCOVERY.--

A. Mediation communications are not confidential pursuant to the Mediation Procedures Act if they:

(1) are contained in an agreement reached by the mediation parties during a mediation, including an agreement to mediate, and the agreement is evidenced by a record signed by the mediation parties, except when parts of the agreement are designated by the mediation parties to be confidential or are confidential as otherwise provided by law;

(2) are communications that all mediation parties agree may be disclosed, as evidenced by a record signed by all mediation parties prior to or at the mediation;

(3) threaten or lead to actual violence in the mediation;

(4) reveal the intent of a mediation party to commit a felony or inflict bodily harm to the mediation party's self or another person;

(5) disprove a felony charge;

(6) are required by law to be made public or otherwise disclosed;

(7) relate to abuse, neglect or criminal activity that is not the subject of the mediation;

(8) are sought or offered to disprove a claim or complaint of professional misconduct or malpractice based on conduct during a mediation and filed against a mediation party or nonparty participant;

(9) relate to the administrative facts of the mediation, including:

(a) whether the mediation parties were referred to mediation;

(b) whether a mediation occurred or has terminated;

(c) the date, time and place of a mediation;

(d) the persons in attendance at a mediation; and

(e) whether a mediator received payment for the mediation; or

(10) relate to whether the parties reached a binding and enforceable settlement in the mediation.

B. Mediation communications may be disclosed if a court, after hearing in camera and for good cause shown, orders disclosure of evidence that is sought to be offered and is not otherwise available in an action on an agreement arising out of a mediation evidenced by a record. Nothing in this subsection shall require disclosure by a mediator of any matter related to mediation communications.

C. Mediators shall not be required to make disclosure, either through discovery or testimony at trial or otherwise, of any matter related to mediation communications, except:

(1) pursuant to Paragraphs (3) through (10) of Subsection A and Paragraph (3) of Subsection D of this section; and

(2) to prove or disprove a claim of mediator misconduct or malpractice filed against a mediator.

D. Nothing in the Mediation Procedures Act shall prevent:

(1) the discovery or admissibility of any evidence that is otherwise discoverable or admissible, merely because the evidence was presented during a mediation;

(2) the gathering of information for research or educational purposes or for the purpose of evaluating or monitoring the performance of a mediator; provided that the mediation parties or the specific circumstances of the dispute of the mediation parties are not identified or identifiable;

(3) a court or court agency, a government or governmental subdivision, agency or instrumentality of this state or a tribal court, government or agency, when conducting a mediation program under its auspices, from ordering prior to the mediation that different or additional rules of confidentiality shall apply to the mediation; or

(4) mediation parties from agreeing in writing to additional or different confidentiality protections prior to the mediation, subject to Paragraphs (3) through (10) of Subsection A and Subsection C of this section.

## **Chapter 11 Section 6 Laws 2007**

### Section 6. EFFECT OF AGREEMENT.--

A. If the mediation parties reach a settlement agreement evidenced by a record signed by the mediation parties, the agreement is enforceable in the same manner as any other written contract. The agreement shall not affect any outstanding court order unless the terms of the agreement are incorporated into a subsequent order.

B. A court, administrative agency or arbitrator, in its discretion, may incorporate the terms of the agreement in the order or other document disposing of the matter.

## **Chapter 11 Section 7 Laws 2007**

Section 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 192, as amended

Approved March 13, 2007

# **LAWS 2007, CHAPTER 12**

AN ACT

RELATING TO PUBLIC SCHOOLS; CREATING THE K-3 PLUS PILOT PROJECT TO PROVIDE EXTENDED TIME FOR STUDENTS IN KINDERGARTEN THROUGH THIRD GRADE IN HIGH-POVERTY PUBLIC SCHOOLS; PROVIDING AN APPLICATION PROCESS; REQUIRING REPORTING; DECLARING AN EMERGENCY.

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

## **Chapter 12 Section 1 Laws 2007**

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

"K-3 PLUS--PILOT PROJECT--ELIGIBILITY--APPLICATION--REPORTING AND EVALUATION.--

A. "K-3 plus" is created as a six-year pilot project that extends the school year for kindergarten through third grade by up to two months for participating students and measures the effect of additional time on literacy, numeracy and social skills development. The purpose of K-3 plus is to demonstrate that increased time in kindergarten and the early grades narrows the achievement gap between disadvantaged students and other students and increases cognitive skills and leads to higher test scores for all participants.

B. K-3 plus shall be administered by the department and shall provide the funding for approved full-day kindergarten and grades one through three to be extended by at least twenty-five instructional days, beginning up to two months earlier than other classes.

C. K-3 plus shall be conducted in high-poverty public schools. For the purposes of K-3 plus, "high-poverty public school" means a public school in which eighty-five percent or more of the students are eligible for free or reduced-fee lunch at the time the public school applies for the program.

D. The department shall determine application requirements and procedures and criteria for evaluating applications. In evaluating applications for K-3 plus, the department shall grant priority to those schools with kindergarten plus programs that have received one or more satisfactory annual evaluations. An applicant shall demonstrate that its K-3 plus program will meet all department standards and employ only qualified teachers and other staff. The department shall provide additional professional development for K-3 plus teachers in how young children learn to read. Teachers and educational assistants shall be paid at the same rate and under the same terms for K-3 plus as teachers and educational assistants are paid for regular educational programs.

E. Students participating in K-3 plus shall be evaluated at the beginning of K-3 plus, and their progress shall be measured through standardized assessments as follows:

(1) in literacy, the dynamic indicator of basic early literacy skills in kindergarten and in grades one through three; and

(2) in numeracy, in grades three and four.

F. The department shall establish reporting and evaluation requirements for participating schools, including student and program assessments. The department shall provide interim and final reports annually to the legislature and the governor on the efficacy of K-3 plus.

G. The department may use up to four percent of any appropriation made by the legislature for the K-3 plus pilot project for professional development for participating educators and department administrative costs."

## **Chapter 12 Section 2 Laws 2007**

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 198, as amended,

with emergency clause

Approved, March 13, 2007

## **LAWS 2007, CHAPTER 13**

AN ACT

RELATING TO VETERANS; PROVIDING FOR SPECIAL RECREATION AND MUSEUM AND MONUMENT PRIVILEGES FOR CERTAIN NEW MEXICO DISABLED VETERANS.

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

## **Chapter 13 Section 1 Laws 2007**

Section 1. Section 16-2-7.1 NMSA 1978 (being Laws 1999, Chapter 174, Section 2) is amended to read:

"16-2-7.1. FREE STATE PARK PASSES TO DISABLED VETERANS.--

A. The state parks division of the energy, minerals and natural resources department shall provide to a fifty percent or more disabled veteran residing in the state:

(1) one day-use pass for unlimited entry into state parks or recreation areas operated by the division; and

(2) one three-day camping pass per year for the use of camping areas operated by the division, whether for consecutive or nonconsecutive days.

B. Proof of disability satisfactory to the division is required to obtain the free passes."

### **Chapter 13 Section 2 Laws 2007**

Section 2. Section 28-13A-1 NMSA 1978 (being Laws 1991, Chapter 93, Section 1) is amended to read:

"28-13A-1. SPECIAL RECREATION AND MUSEUM PRIVILEGES.--

A. On the federally designated legal holiday known as "Veterans' Day", any New Mexico resident who provides satisfactory proof that the resident is currently serving or has served in the armed forces of the United States, and the resident's spouse and dependent children, shall be entitled to:

(1) free use of any state park or recreation area operated by the state parks division of the energy, minerals and natural resources department, including the waiving of all admittance, camping, permit or other user fees or charges; and

(2) free general admission to any state museum or monument.

B. The governing boards of state museums and monuments shall waive general museum and monument admission fees for fifty percent or more disabled veterans residing in the state. Proof of disability satisfactory to the governing boards of the state museums and monuments is required to obtain the privileges pursuant to this subsection."

### **Chapter 13 Section 3 Laws 2007**

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

Committee Substitute for House Bill 210

Approved March 13, 2007

## **LAWS 2007, CHAPTER 14**

AN ACT

RELATING TO HEALTH AND SAFETY; PROVIDING FOR HEALTH INFORMATION TECHNOLOGY; CHANGING THE NAME OF THE NEW MEXICO TELEHEALTH COMMISSION ACT AND THE NEW MEXICO TELEHEALTH COMMISSION.

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

### **Chapter 14 Section 1 Laws 2007**

Section 1. Section 24-1G-1 NMSA 1978 (being Laws 2005, Chapter 55, Section 1) is amended to read:

"24-1G-1. SHORT TITLE.--Chapter 24, Article 1G NMSA 1978 may be cited as the "New Mexico Telehealth and Health Information Technology Commission Act"."

### **Chapter 14 Section 2 Laws 2007**

Section 2. Section 24-1G-2 NMSA 1978 (being Laws 2005, Chapter 55, Section 2) is amended to read:

"24-1G-2. PURPOSE.--The purpose of creating a telehealth and health information technology commission is to encourage a single, coordinated statewide effort to create a telehealth and health information technology system that:

A. provides and supports health care delivery, diagnosis, consultation, treatment, transfer of medical data and education when distance separates a patient and a health care provider; multiple health care providers involved in patient care; and health care providers and educational or professional activities;

B. addresses the problems of provider distribution in medically underserved areas of the state;

C. strengthens the health infrastructure;

D. attracts and retains health care providers in rural areas; and

E. helps reduce costs associated with health care and make health care more affordable."

## **Chapter 14 Section 3 Laws 2007**

Section 3. Section 24-1G-3 NMSA 1978 (being Laws 2005, Chapter 55, Section 3) is amended to read:

"24-1G-3. DEFINITIONS.--As used in the New Mexico Telehealth and Health Information Technology Commission Act:

A. "commission" means the New Mexico telehealth and health information technology commission;

B. "health information technology" means products, devices or systems that allow for the secure electronic collection, storage, exchange or management of patient information; and

C. "telehealth" means the use of electronic information, imaging and communication technologies, including interactive audio, video and data communications as well as store-and-forward technologies, to provide and support health care delivery, diagnosis, consultation, treatment, transfer of medical data and education."

## **Chapter 14 Section 4 Laws 2007**

Section 4. Section 24-1G-4 NMSA 1978 (being Laws 2005, Chapter 55, Section 4) is amended to read:

"24-1G-4. NEW MEXICO TELEHEALTH AND HEALTH INFORMATION TECHNOLOGY COMMISSION CREATED--POWERS AND DUTIES--MEMBERSHIP.--

A. The "New Mexico telehealth and health information technology commission" is created. The commission is administratively attached to the department of health, which shall work in conjunction with the New Mexico health policy commission, in accordance with the Executive Reorganization Act.

B. The commission shall consist of no more than twenty-five members with members, one-third of whom shall be from rural areas, chosen from the following categories, all of whom shall be appointed by and serve at the pleasure of the governor:

- (1) health care facilities;
- (2) health care practitioners;
- (3) health care workforce educators;
- (4) telehealth technology experts;

- (5) the telecommunications industry;
- (6) the business community;
- (7) health care insurance providers or other health care payers;
- (8) the health information technology industry;
- (9) Indian nations, tribes and pueblos;
- (10) legislators;
- (11) state agencies responsible for:
  - (a) telecommunications;
  - (b) public health;
  - (c) medicaid and social services;
  - (d) workforce development;
  - (e) children's health and social services;
  - (f) services for the elderly and disabled;
  - (g) criminal justice;
  - (h) health policy and planning; and
  - (i) education; and

(12) other members as the governor may appoint to ensure appropriate cultural and geographic representation and the interests of the public.

C. The commission shall:

- (1) identify how telehealth and health information technology can be used to increase access to care and implement state comprehensive health plans;
- (2) identify barriers to telehealth and health information technology utilization and expansion, including payment, infrastructure, training and workforce availability;
- (3) inventory the state's telehealth and health information technology assets, map available telecommunications infrastructure and examine the financial

impact of failing to develop the state's telehealth and health information technology capacities;

(4) coordinate public and private sector initiatives to enhance networking, portal development and connectivity and to expand telehealth and health information technology and telecommunications capacity;

(5) establish subcommittees as the commission deems necessary to fulfill its purpose, powers and duties or to address specific telehealth and health information technology issues;

(6) identify specific actions to increase collaborative efforts and public-private partnerships to increase the use of telehealth and health information technology for health care access development, patient outcome improvement, patient and workforce education and health care practitioner recruitment and development;

(7) develop and disseminate specific telehealth and health information technology guidelines to ensure quality of care, positive health outcomes, appropriate use of technology and protection of privacy and confidentiality;

(8) review and comment on initiatives, projects or grant applications to ensure telehealth and health information technology guidelines are met and maximum collaboration and cooperation across the state is encouraged;

(9) meet at least once each quarter at the call of the chair or vice chair, who shall be designated by the governor from among the membership; and

(10) report annually to the governor and the legislature on the state of the telehealth and health information technology system and the adequacy and allocation of telehealth and health information technology services throughout the state, providing the governor and the legislature with specific recommendations for improving telehealth and health information technology and related service systems.

D. A majority of the members of the commission constitutes a quorum for the transaction of business.

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House Bill 428, as amended

Approved March 13, 2007

## **LAWS 2007, CHAPTER 15**

AN ACT

RELATING TO PHARMACY; ESTABLISHING A PHARMACY RECORDS AUDIT PROCESS; PROVIDING FOR AN APPEAL PROCESS.

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

## **Chapter 15 Section 1 Laws 2007**

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

"AUDIT OF PHARMACY RECORDS.--

A. As used in this section, "entity" means a managed care company, insurance company, third-party payor or the representative of the managed care company, insurance company or third-party payor.

B. An audit of the records of a pharmacy by an entity shall be conducted in accordance with the following criteria:

(1) the entity conducting the initial on-site audit shall give the pharmacy notice at least two weeks prior to conducting the initial on-site audit for each audit cycle;

(2) an audit that involves clinical or professional judgment shall be conducted by or in consultation with a pharmacist;

(3) a clerical or record-keeping error, regarding a required document or record, shall not necessarily constitute fraud but such a claim:

(a) may be subject to recoupment; and

(b) shall not be subject to criminal penalties without proof of intent to commit fraud;

(4) a pharmacy may use the records of a hospital, physician or other authorized practitioner of the healing arts for drugs or medicinal supplies written or transmitted by any means of communication for purposes of validating the pharmacy record with respect to orders or refills of a dangerous drug or controlled substance;

(5) a finding of an overpayment or underpayment shall not be a projection based on the number of patients served having a similar diagnosis or on the number of similar orders or refills for similar drugs and recoupment of claims shall be based on the actual overpayment or underpayment unless the entity demonstrates a statistically justifiable method of projection or the projection for overpayment or underpayment is part of a settlement as agreed to by the pharmacy;

(6) each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies audited by the entity;

(7) a pharmacy shall be allowed at least twenty-one business days, with reasonable extensions allowed, following receipt of the preliminary audit report in which to produce documentation to address any discrepancy found during an audit;

(8) the period covered by an audit shall not exceed two years, unless otherwise provided by contractual agreement, from the date the claim was submitted to or adjudicated by an entity or unless it conflicts with state or federal law;

(9) an audit shall not be initiated or scheduled during the first five calendar days of a month due to the high volume of prescriptions filled during that time unless otherwise consented to by the pharmacy;

(10) the preliminary audit report shall be delivered to the pharmacy within one hundred twenty days, with reasonable extensions allowed, after conclusion of the audit, and the final report shall be delivered to the pharmacy within six months after receipt of the preliminary audit report or final appeal, as provided for in Subsection C of this section, whichever is later;

(11) the audit criteria set forth in this subsection shall apply only to audits of claims submitted for payment after July 1, 2007; and

(12) notwithstanding any other provision in this subsection, the entity conducting the audit shall not use the accounting practice of extrapolation in calculating recoupments or penalties for audits.

C. Recoupment of any disputed funds shall occur after final internal disposition of the audit, including the appeals process set forth in Subsection D of this section. Should the identified discrepancy for an individual audit exceed twenty-five thousand dollars (\$25,000), future payments to the pharmacy may be withheld pending finalization of the audit.

D. Each entity conducting an audit shall establish an appeals process under which a pharmacy may appeal an unfavorable preliminary audit report to the entity. If, following the appeal, the entity finds that an unfavorable audit report or any portion of the audit is unsubstantiated, the entity shall dismiss the audit report or the unsubstantiated portion of the report of the audit without the necessity of any further proceedings.

E. This section does not apply to any investigative audit that involves probable or potential fraud, willful misrepresentation."

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House Business and Industry Committee

Substitute for House Bill 482

Approved, March 13, 2007

## **LAWS 2007, CHAPTER 16**

AN ACT

RELATING TO TIMBER; ENACTING A NEW SECTION OF CHAPTER 68 NMSA 1978 TO PROTECT WILDLAND FIREFIGHTERS RESPONDING TO WILDLAND FIRES FROM CRIMINAL LIABILITY.

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

### **Chapter 16 Section 1 Laws 2007**

Section 1. A new section of Chapter 68 NMSA 1978 is enacted to read:

"WILDLAND FIREFIGHTERS NOT SUBJECT TO CRIMINAL LIABILITY.-- Employees or agents of governmental entities who authorize volunteer firefighters not certified according to national wildland firefighting standards to respond to wildland fires shall not be subject to criminal liability solely for allowing those volunteer firefighters to engage in firefighting activities."

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House Bill 507, as amended

Approved March 13, 2007

## **LAWS 2007, CHAPTER 17**

AN ACT

RELATING TO HEALTH INSURANCE; REQUIRING INSURERS TO COVER PERIODIC COLORECTAL CANCER SCREENING TESTS.

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

### **Chapter 17 Section 1 Laws 2007**

Section 1. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

"COVERAGE OF COLORECTAL CANCER SCREENING.--

A. An individual or group health insurance policy, health care plan and certificate of health insurance that is delivered, issued for delivery or renewed in this state shall provide coverage for colorectal screening for determining the presence of precancerous or cancerous conditions and other health problems. The coverage shall make available colorectal cancer screening, as determined by the health care provider in accordance with the evidence-based recommendations established by the United States preventive services task force.

B. Coverage for colorectal screening may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.

C. The provisions of this section shall not apply to short-term travel, accident-only or limited or specified- disease policies."

## **Chapter 17 Section 2 Laws 2007**

Section 2. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"COVERAGE OF COLORECTAL CANCER SCREENING.--

A. A blanket or group health policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall provide coverage for colorectal screening for determining the presence of precancerous or cancerous conditions and other health problems. The coverage shall make available colorectal cancer screening, as determined by the health care provider in accordance with the evidence-based recommendations established by the United States preventive services task force.

B. Coverage for colorectal screening may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.

C. The provisions of this section shall not apply to short-term travel, accident-only or limited or specified- disease policies."

## **Chapter 17 Section 3 Laws 2007**

Section 3. A new section of the Health Maintenance Organization Law is enacted to read:

"COVERAGE OF COLORECTAL CANCER SCREENING.--

A. An individual or group health maintenance organization contract that is delivered, issued for delivery or renewed in this state shall provide coverage for

colorectal screening for determining the presence of precancerous or cancerous conditions and other health problems. The coverage shall make available colorectal cancer screening, as determined by the health care provider in accordance with the evidence-based recommendations established by the United States preventive services task force.

B. Coverage for colorectal screening may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate."

## **Chapter 17 Section 4 Laws 2007**

Section 4. A new section of the Nonprofit Health Care Plan Law is enacted to read:

### "COVERAGE OF COLORECTAL CANCER SCREENING.--

A. An individual or group health policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall provide coverage for colorectal screening for determining the presence of precancerous or cancerous conditions and other health problems. The coverage shall make available colorectal cancer screening, as determined by the health care provider in accordance with the evidence-based recommendations established by the United States preventive services task force.

B. Coverage for colorectal screening may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.

C. The provisions of this section shall not apply to short-term travel, accident-only or limited or specified- disease policies."

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House Bill 510, as amended

Approved March 13, 2007

## **LAWS 2007, CHAPTER 18**

AN ACT

RELATING TO NURSING MOTHERS; SAFEGUARDING A NURSING MOTHER'S RIGHT TO USE A BREAST PUMP IN THE WORKPLACE AND TO HAVE A FLEXIBLE BREAK TIME IN WHICH TO USE IT.

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

## **Chapter 18 Section 1 Laws 2007**

Section 1. A new section of Chapter 28, Article 20 NMSA 1978 is enacted to read:

"USE OF A BREAST PUMP IN THE WORKPLACE.--

A. In order to foster the ability of a nursing mother who is an employee to use a breast pump in the workplace, an employer, including the state and its political subdivisions, shall provide:

(1) a space for using the breast pump that is:

(a) clean and private;

(b) near the employee's workspace; and

(c) not a bathroom; and

(2) flexible break times.

B. An employer shall not be liable for:

(1) storage or refrigeration of breast milk;

(2) payment for a nursing mother's break time in addition to established employee breaks; or

(3) payment of overtime while a nursing mother is using a breast pump.

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House Bill 613

Approved March 13, 2007

## **LAWS 2007, CHAPTER 19**

AN ACT

RELATING TO JUVENILE JUSTICE; EXPANDING THE PURPOSE OF THE DELINQUENCY ACT.

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

## **Chapter 19 Section 1 Laws 2007**

Section 1. Section 32A-2-1 NMSA 1978 (being Laws 1993, Chapter 77, Section 30) is amended to read:

"32A-2-1. SHORT TITLE.--Chapter 32A, Article 2 NMSA 1978 may be cited as the "Delinquency Act"."

## **Chapter 19 Section 2 Laws 2007**

Section 2. Section 32A-2-2 NMSA 1978 (being Laws 1993, Chapter 77, Section 31, as amended) is amended to read:

"32A-2-2. PURPOSE OF ACT.--The purpose of the Delinquency Act is:

A. consistent with the protection of the public interest, to remove from children committing delinquent acts the adult consequences of criminal behavior, but to still hold children committing delinquent acts accountable for their actions to the extent of the child's age, education, mental and physical condition, background and all other relevant factors, and to provide a program of supervision, care and rehabilitation, including rehabilitative restitution by the child to the victims of the child's delinquent act to the extent that the child is reasonably able to do so;

B. to provide effective deterrents to acts of juvenile delinquency, including an emphasis on community-based alternatives;

C. to strengthen families and to successfully reintegrate children into homes and communities;

D. to foster and encourage collaboration between government agencies and communities with regard to juvenile justice policies and procedures;

E. to develop juvenile justice policies and procedures that are supported by data;

F. to develop objective risk assessment instruments to be used for admission to juvenile detention centers;

G. to encourage efficient processing of cases;

H. to develop community-based alternatives to detention;

I. to eliminate or reduce disparities based upon race or gender;

J. to improve conditions of confinement in juvenile detention centers; and

K. to achieve reductions in the number of warrants issued, the number of probation violations and the number of youth awaiting placements."

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House Bill 517, as amended

Approved March 13, 2007

## **LAWS 2007, CHAPTER 20**

AN ACT

RELATING TO HEALTH; CHANGING THE NAME OF THE CLEAN INDOOR ACT TO THE DEE JOHNSON CLEAN INDOOR AIR ACT; LOCATIONS OF TOBACCO SMOKING; PROVIDING PENALTIES.

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

### **Chapter 20 Section 1 Laws 2007**

Section 1. Section 24-16-1 NMSA 1978 (being Laws 1985, Chapter 85, Section 1) is amended to read:

"24-16-1. SHORT TITLE.-- Chapter 24, Article 16 NMSA 1978 may be cited as the "Dee Johnson Clean Indoor Air Act"."

### **Chapter 20 Section 2 Laws 2007**

Section 2. Section 24-16-3 NMSA 1978 (being Laws 1985, Chapter 85, Section 3) is amended to read:

"24-16-3. DEFINITIONS.--As used in the Dee Johnson Clean Indoor Air Act:

A. "bar" means an establishment that is devoted to the selling or serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food is only incidental to the consumption of those beverages, including taverns, nightclubs, cocktail lounges and cabarets;

B. "cigar bar" means an establishment that:

(1) is a bar as defined in Subsection A of this section; and

(2) is engaged in the business of selling cigars for consumption by patrons on the premises and generates ten percent or more of its total annual gross revenue or at least ten thousand dollars (\$10,000) in annual sales from the sale of cigars, not including any sales from vending machines. A cigar bar that fails to generate at least ten percent of its total annual sales from the sale of cigars in the calendar year after December 31, 2006, not including sales from vending machines, shall not be defined as a cigar bar and shall not thereafter be known as such regardless of sales figures. A cigar bar shall agree to provide adequate information to demonstrate to the state's satisfaction compliance with this definition;

C. "department" means the department of health;

D. "designated outdoor smoking area" means an area where smoking may be permitted, designated by an employer or manager, outside an indoor workplace or indoor public place; provided that the following conditions are maintained:

(1) smoking shall not be permitted near any building entrance, including a door, window or ventilation system of any facility where smoking is prohibited under the provisions of the Dee Johnson Clean Indoor Air Act, so as to prevent secondhand smoke from entering the indoor workplace or indoor public place; and

(2) employees or members of the general public are not required to walk through the smoking area to gain entrance to the indoor workplace or indoor public place;

E. "employer" means an individual, a partnership, a corporation or the state or a political subdivision of the state that employs the services of one or more individuals;

F. "enclosed" means any interior space predominantly or totally bounded on all sides and above by physical barriers, regardless of whether such barriers consist of or include uncovered openings, screened or otherwise partially covered openings or open or closed windows;

G. "indoor public place" means the enclosed area within any governmental or nongovernmental place to which the public is invited or in which the public is permitted regardless of whether work or public business, meetings or hearings occur at any given time;

H. "indoor workplace" means any enclosed place where one or more persons engage in work, including lobbies, reception areas, offices, conference and meeting rooms, employee cafeterias and lunchrooms, break rooms and employee lounges, classrooms, auditoriums, hallways, stairways, waiting areas, elevators and restrooms and includes all indoor workplaces and enclosed parts regardless of whether work occurs at any given time;

I. "private club" means an organization, whether incorporated or not, that is the owner, lessee or occupant of a building or portion thereof used exclusively for the organization's purposes at all times, that is operated solely for recreational, fraternal, social, patriotic, political, benevolent or athletic purposes, but not for pecuniary gain, and that only sells alcoholic beverages incidental to its operation. The organization shall have bylaws or a constitution to govern its activities and shall have been granted an exemption as a club under the provisions of Section 501 of the Internal Revenue Code of 1986, as amended;

J. "restaurant" means a coffee shop, cafeteria, private or public school cafeteria or eating establishment and any other eating establishment that gives or offers for sale food to the public, patrons or employees, including kitchens and catering facilities in which food is prepared on the premises for serving elsewhere or a bar area within or attached to the premises;

K. "retail tobacco store" means a retail store used primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental, including smoke shops, cigar shops or hookah lounges, and does not include establishments that offer for sale alcoholic beverages for consumption by patrons on the premises;

L. "secondhand smoke" means smoke emitted from lighted, smoldering or burning tobacco when the smoker is not inhaling, smoke emitted at the mouthpiece during puff drawing and smoke exhaled by the smoker;

M. "smokefree area" means any building or other enclosed space where smoking is prohibited;

N. "smoking" means inhaling, exhaling, burning, carrying or holding any lighted tobacco product, including all types of cigarettes, cigars and pipes and any other lighted tobacco product; and

O. "smoking-permitted area" means any building or other enclosed space where smoking may be permitted; provided that secondhand smoke does not infiltrate any area where smoking is prohibited pursuant to the Dee Johnson Clean Indoor Air Act."

## **Chapter 20 Section 3 Laws 2007**

Section 3. Section 24-16-4 NMSA 1978 (being Laws 1985, Chapter 85, Section 4, as amended) is amended to read:

"24-16-4. SMOKING PROHIBITED.--

A. It is unlawful for a person to smoke in any indoor workplace or indoor public place or in buses, taxicabs or other means of public transit not specifically exempted pursuant to the Dee Johnson Clean Indoor Air Act.

B. No part of the state capitol or capitol north shall be designated as a smoking-permitted area."

## **Chapter 20 Section 4 Laws 2007**

Section 4. A new section of the Dee Johnson Clean Indoor Air Act is enacted to read:

"SMOKING-PERMITTED AREAS.--Notwithstanding any other provision of the Dee Johnson Clean Indoor Air Act, smoking-permitted areas include the following:

A. a private residence, except during hours of business operation while it is being used commercially to provide child care, adult care or health care or any combination of those activities;

B. a retail tobacco store;

C. a cigar bar;

D. the facilities of a tobacco manufacturing company licensed by the United States to manufacture tobacco products that are operated by the company in its own name and that are used exclusively by the company in its business of manufacturing, marketing or distributing its tobacco products; provided that smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited under the Dee Johnson Clean Indoor Air Act;

E. a state-licensed gaming facility, casino or bingo parlor;

F. an indoor workplace to the extent that tobacco smoking is an integral part of a smoking cessation program that is approved by the department or of medical or scientific research that is conducted in the indoor workplace and in which each room of the indoor workplace in which tobacco smoking is permitted complies with signage requirements;

G. designated outdoor smoking areas;

H. private clubs;

I. a limousine under private hire;

J. hotel and motel rooms that are rented to guests and are designated as smoking-permitted rooms; provided that not more than twenty-five percent of rooms rented to guests in a hotel or motel may be so designated;

K. enclosed areas within restaurants, bars, hotel and motel conference or meeting rooms while these places are being used for private functions; provided that

none of these areas are open to the general public while the private functions are occurring and provided that smoke does not infiltrate other indoor workplaces or indoor public places where smoking is otherwise prohibited under the Dee Johnson Clean Indoor Air Act;

L. a site that is being used in connection with the practice of cultural or ceremonial activities by Native Americans and that is in accordance with the federal American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a;

M. a business of a sole proprietor or a business with fewer than two employees that is not commonly accessible to the public; provided that:

(1) the business is not a restaurant or bar;

(2) the employer or manager of such business shall provide a smoke-free work environment for each employee requesting a smoke-free work environment; and

(3) cigarette smoke does not infiltrate other smoke-free work environments as provided for in the Dee Johnson Clean Indoor Air Act; and

N. a theatrical stage or a motion picture or television production set when it is necessary for performers to smoke as part of the production."

## **Chapter 20 Section 5 Laws 2007**

Section 5. A new section of the Dee Johnson Clean Indoor Air Act is enacted to read:

"PROHIBITION OF SMOKING NEAR ENTRANCES, WINDOWS AND VENTILATION SYSTEMS.--Smoking is prohibited near entrances, windows and ventilation systems of all workplaces and public places where smoking is prohibited by the Dee Johnson Clean Indoor Air Act. An individual who owns, manages, operates or otherwise controls the use of any premises subject to the provisions of the Dee Johnson Clean Indoor Air Act shall establish a smokefree area that extends a reasonable distance from any entrances, windows and ventilation systems to any enclosed areas where smoking is prohibited. The reasonable distance shall be a distance sufficient to ensure that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and to ensure that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means."

## **Chapter 20 Section 6 Laws 2007**

Section 6. A new section of the Dee Johnson Clean Indoor Air Act is enacted to read:

"RESPONSIBILITIES OF EMPLOYERS.--

A. Employers shall provide that their places of employment meet the requirements of the Dee Johnson Clean Indoor Air Act.

B. An employer shall adopt, implement, post and maintain a written smoking policy pursuant to the Dee Johnson Clean Indoor Air Act."

## **Chapter 20 Section 7 Laws 2007**

Section 7. A new section of the Dee Johnson Clean Indoor Air Act is enacted to read:

"POSTED SMOKEFREE AND SMOKING-PERMITTED AREAS.--

A. To advise persons of the existence of smokefree areas or smoking-permitted areas, signs shall be posted as follows:

(1) for each indoor workplace or indoor public place where smoking is prohibited pursuant to the Dee Johnson Clean Indoor Air Act, a "NO SMOKING" sign shall be posted where it is clear, conspicuous and easily legible at each public entrance. Posting of "NO SMOKING" signs is the responsibility of the owner, operator, manager or other person having control of the indoor workplace or indoor public place; and

(2) for each indoor workplace or indoor public place where smoking is permitted pursuant to the Dee Johnson Clean Indoor Air Act, a "SMOKING PERMITTED" sign shall be posted where it is clear, conspicuous and easily legible at each public entrance, unless an owner, operator or manager chooses to prohibit smoking in all or part of an indoor workplace or indoor public place where smoking is otherwise permitted.

B. Nothing in the Dee Johnson Clean Indoor Air Act shall be construed so as to require the posting of signs at a residence, except during the hours of business operation while it is being used commercially to provide child care, adult care or health care or any combination of those activities."

## **Chapter 20 Section 8 Laws 2007**

Section 8. A new section of the Dee Johnson Clean Indoor Air Act is enacted to read:

"ENFORCEMENT.--

A. The local fire, police or sheriff's department with appropriate jurisdiction over the location where a violation of the provisions of the Dee Johnson Clean Indoor Air Act occurs shall enforce that act by issuance of a citation.

B. A person may register a complaint regarding an alleged violation pursuant to the Dee Johnson Clean Indoor Air Act to initiate enforcement of that act with the department or the local fire, police or sheriff's department.

C. The designated enforcement agencies may inspect an establishment for compliance with the Dee Johnson Clean Indoor Air Act."

## **Chapter 20 Section 9 Laws 2007**

Section 9. A new section of the Dee Johnson Clean Indoor Air Act is enacted to read:

"VIOLATIONS.--It is unlawful for a person who owns, manages, operates or otherwise controls the use of premises subject to regulation under the Dee Johnson Clean Indoor Air Act to violate its provisions. The owner, manager or operator of premises subject to regulation under the Dee Johnson Clean Indoor Air Act shall not be subject to a penalty if a person on the premises is in violation of the Dee Johnson Clean Indoor Air Act as long as the owner, manager or operator has posted signs, implemented the appropriate policy and informed the person that the person is in violation of the Dee Johnson Clean Indoor Air Act."

## **Chapter 20 Section 10 Laws 2007**

Section 10. A new section of the Dee Johnson Clean Indoor Air Act is enacted to read:

"PENALTIES.--A person eighteen years of age or older who violates a provision of the Dee Johnson Clean Indoor Air Act is subject to:

A. a fine not to exceed one hundred dollars (\$100) for the first violation of that act;

B. a fine not to exceed two hundred dollars (\$200) for the second violation of that act within any consecutive twelve-month period of the first violation; and

C. a fine not to exceed five hundred dollars (\$500) for the third and each subsequent violation of that act within any consecutive twelve-month period of a previous violation."

## **Chapter 20 Section 11 Laws 2007**

Section 11. A new section of the Dee Johnson Clean Indoor Air Act is enacted to read:

"NONRETALIATION--NONWAIVER.--

A. A person or employer shall not discharge, refuse to hire or in any manner retaliate against an employee, applicant for employment or patron because that employee, applicant or patron exercises any rights afforded by the Dee Johnson Clean Indoor Air Act or reports or attempts to prosecute a violation of that act.

B. An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party."

## **Chapter 20 Section 12 Laws 2007**

Section 12. A new section of the Dee Johnson Clean Indoor Air Act is enacted to read:

"EXPLICIT NONPREEMPTION.--Nothing in the Dee Johnson Clean Indoor Air Act shall be construed to preempt or in any manner preclude specific provisions of a county or municipal smoking ordinance; provided that the smokefree provisions of such a county or municipal ordinance are inclusive of all minimum standards and provisions for smokefree areas within the Dee Johnson Clean Indoor Air Act."

## **Chapter 20 Section 13 Laws 2007**

Section 13. REPEAL.--Sections 24-16-5 through 24-16-11 NMSA 1978 (being Laws 1985, Chapter 85, Sections 5 through 11) are repealed.

## **Chapter 20 Section 14 Laws 2007**

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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House Health and Government Affairs Committee

Substitute for House Bill 283, as amended

Approved March 13, 2007

# **LAWS 2007, CHAPTER 21**

**WITH PARTIAL VETO**

AN ACT

MAKING APPROPRIATIONS AND AUTHORIZING EXPENDITURES BY STATE AGENCIES.

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

**Chapter 21 Section 1 Laws 2007**

Section 1. JUDICIAL PROJECTS.--The following amounts are appropriated from the general fund to the following agencies for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the general fund:

1. to the supreme court, sixty-four thousand dollars (\$64,000) for a paralegal position to assist staff attorneys;

2. to the administrative office of the courts:

(a) one hundred thousand dollars (\$100,000) for operational expenses of the drug court program to be used for replacement of lapsing funds, drug court expansion or implementation of new drug courts;

(b) twenty-five thousand dollars (\$25,000) to contract for additional usage of judges pro tempore;

(c) twenty-five thousand dollars (\$25,000) to pay the costs of producing written transcripts for indigent defendants in criminal proceedings; and

(d) fifty thousand dollars (\$50,000) for one court clerk in the Taos county magistrate court;

3. to the first judicial district court, eighty thousand dollars (\$80,000) for an associate staff attorney;

4. to the second judicial district court:

(a) forty thousand dollars (\$40,000) for one judicial specialist;

(b) one hundred three thousand four hundred eighty dollars (\$103,480) for judicial specialists;

(c) twenty-three thousand dollars (\$23,000) for staff expansion; and

(d) fifty thousand dollars (\$50,000) for one civil staff attorney;

5. to the fourth judicial district court,

fifty-seven thousand dollars (\$57,000) to expand security staff, including security officers and bailiffs;

6. to the fifth judicial district court:

(a) fifty thousand dollars (\$50,000) for one additional full-time-equivalent position;

(b) seventy thousand dollars (\$70,000) for a teen court program in Hobbs; and

(c) ninety thousand dollars (\$90,000) for court-appointed special advocates in Lea county;

7. to the seventh judicial district court:

(a) one hundred thousand dollars (\$100,000) to establish a drug court; and

(b) one hundred thousand dollars (\$100,000) to start a drug court in Torrance county;

8. to the ninth judicial district attorney, thirty-five thousand dollars (\$35,000) for an anti-graffiti program;

9. to the eleventh judicial district court:

(a) seventy-five thousand dollars (\$75,000) for an adult drug court in San Juan county; and

(b) eighty-five thousand dollars (\$85,000) for a staff attorney;

10. to the twelfth judicial district court, one hundred twenty thousand dollars (\$120,000) for two court reporters and one motor vehicle;

11. to the thirteenth judicial district court:

(a) fifty thousand dollars (\$50,000) for a court clerk;

(b) fifty-seven thousand dollars (\$57,000) for a court clerk;

(c) ninety-five thousand dollars (\$95,000) for a pre-trial services program; and

(d) eighty thousand dollars (\$80,000) for an adult mental health court;

12. to the second judicial district attorney, fifty thousand dollars (\$50,000) to restore funding;

13. to the fourth judicial district attorney:

(a) thirty-five thousand dollars (\$35,000) to fund a Victims of Crime Act position to aid prosecution of domestic violence cases;

(b) twenty thousand dollars (\$20,000) for an administrative secretary; and

(c) twenty-five thousand dollars (\$25,000) for staff expansion;

14. to the fifth judicial district attorney:

(a) eighty-seven thousand dollars (\$87,000) for a domestic violence prevention program;

(b) one hundred thousand dollars (\$100,000) for a drug awareness and prevention program for school districts in the fifth judicial district;

(c) seventy-five thousand dollars (\$75,000) for operations of the safehouse program in Chaves county; and

(d) twenty thousand dollars (\$20,000) for increased salaries for assistant district attorneys in Lea county;

15. to the eleventh judicial district attorney, division 2, fifty-one thousand dollars (\$51,000) for a senior legal secretary in Gallup;

16. to the twelfth judicial district attorney:

(a) twenty-eight thousand dollars (\$28,000) for a program assistant for records management; and

(b) fifty-six thousand two hundred dollars (\$56,200) for a domestic violence investigator in the Otero county sheriff's office;

17. to the thirteenth judicial district attorney:

(a) eighty-five thousand dollars (\$85,000) for a violent crimes investigator;  
and

(b) thirty thousand dollars (\$30,000) for a victim advocate; and

18. to the administrative office of the district attorneys, forty thousand dollars (\$40,000) for two motor vehicles.

## **Chapter 21 Section 2 Laws 2007**

Section 2. ATTORNEY GENERAL PROJECT.--Twenty thousand dollars (\$20,000) is appropriated from the general fund to the attorney general for expenditure in fiscal year 2008 to fund the operation of the Guadalupe Hidalgo treaty division. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 21 Section 3 Laws 2007**

Section 3. DEPARTMENT OF FINANCE AND ADMINISTRATION PROJECTS.--The following amounts are appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2008 for the specified purposes and, unless otherwise indicated, any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund:

1. seventy-five thousand dollars (\$75,000) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2008 to purchase mortgage loans made to low-income homeowners;

~~2. four hundred thousand dollars (\$400,000) for the office of water infrastructure development, contingent upon House Bill 781 or similar legislation of the first session of the forty-eighth legislature becoming law; and~~

3. three hundred seventy-five thousand dollars (\$375,000) for rodeo programs.

## **Chapter 21 Section 4 Laws 2007**

Section 4. LOCAL GOVERNMENT DIVISION PROJECTS.--The following amounts are appropriated from the general fund to the local government division of the department of finance and administration for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the general fund:

1. one hundred thirty-seven thousand dollars (\$137,000) for the eastern plains council of governments to conduct a summer youth employment and training program for at-risk youth in senate district 7;

2. seventy-five thousand dollars (\$75,000) to implement and administer a demonstration program in San Juan, McKinley and Cibola counties designed to help communities understand and reduce risks due to toxins from all sources;

3. twenty thousand dollars (\$20,000) for the northwest council of governments and the south central council of governments to develop regional transportation plans;

4. fifty thousand dollars (\$50,000) for the northwest council of governments to develop a regional transportation plan;

5. thirty-five thousand dollars (\$35,000) for the northwest council of governments to develop a native heritage scenic byways plan;

6. seventy-five thousand dollars (\$75,000) for a music and visual and performing arts education program for youth in Truchas, Cordova and Ojo Sarco;

7. for the mid-region council of governments:

(a) fifteen thousand dollars (\$15,000) to provide stipends to qualified student interns participating in a charter school building trades and technology program in Bernalillo county;

(b) fifty thousand dollars (\$50,000) for a high-technology mentoring program at Robert F. Kennedy charter school in the Albuquerque public school district; and

(c) forty-five thousand dollars (\$45,000) to contract for services to facilitate the completion of the south valley multipurpose family services center and facilitate communications and collaboration with all stakeholders;

8. fifteen thousand dollars (\$15,000) for a talent search for the New Mexico youth day concert to be held in Bernalillo county on the youth day holiday;

9. thirty thousand dollars (\$30,000) for celebrations of New Mexico youth day at Los Vecinos community center in Tijeras in Bernalillo county;

10. twenty thousand dollars (\$20,000) to conduct before- and after-school programs in Bernalillo county to address juvenile delinquency, domestic violence and educational inadequacies;

11. twenty-five thousand dollars (\$25,000) for a collaboration between Albuquerque and Bernalillo county to provide educational training for persons attempting to attain their general education development certificate;

12. eighty thousand dollars (\$80,000) for a bicycle repair and recycling program in the Atrisco area of the south valley in Bernalillo county;

13. twenty thousand dollars (\$20,000) for computer clubhouses in Bernalillo county;

14. twenty-five thousand dollars (\$25,000) for a transitional housing program for substance-dependent and homeless people in Bernalillo county to help them to attain

employment and long-term housing and to maintain sobriety and to reduce their impact on emergency response systems in Albuquerque;

15. twenty-five thousand dollars (\$25,000) for job training services for low-income women in Albuquerque;

16. fifty thousand dollars (\$50,000) for a workforce development program for young adults in Bernalillo county;

17. fifty thousand dollars (\$50,000) to promote the economic development and revitalization of the west central corridor by contracting with a community organization for services and to facilitate communication and collaboration with ten neighborhood associations and two merchant associations in Albuquerque;

18. forty thousand dollars (\$40,000) for a science and engineering fair in Albuquerque;

19. twenty-five thousand dollars (\$25,000) for the Bernalillo county anti-graffiti program for graffiti cleanup in the area contained between Central avenue southwest on the north, Rio Bravo boulevard southwest on the south, Coors boulevard southwest on the west and the Rio Grande on the east in Bernalillo county;

20. forty thousand dollars (\$40,000) for community policing rapid response in Albuquerque;

21. forty thousand dollars (\$40,000) for community policing rapid response in Bernalillo county;

22. thirty thousand dollars (\$30,000) for operations of a community art center serving disabled people in the north valley of Albuquerque;

23. twenty-seven thousand dollars (\$27,000) for an after-school tutoring program at the John Marshall multiservice center in Albuquerque;

24. twenty-five thousand dollars (\$25,000) for a fetal alcohol syndrome awareness program media campaign in Los Ranchos de Albuquerque;

25. fifty thousand dollars (\$50,000) for a Chaves county youth leadership program aimed toward breaking the cycle of violence for high-risk youth;

26. seventy thousand dollars (\$70,000) for a character development program in Chaves county;

27. thirty thousand dollars (\$30,000) for operational expenses of a youth center in Roswell;

28. seventy-five thousand dollars (\$75,000) for Dona Ana county to contract with a community action agency for services;

29. twenty thousand dollars (\$20,000) for community youth programs in Las Cruces;

30. thirty thousand dollars (\$30,000) for homeless veterans shelter services in Las Cruces;

31. five thousand dollars (\$5,000) for supplies and emergency services delivered by an international rescue agency in Dona Ana county;

32. sixty-two thousand dollars (\$62,000) for a domestic violence shelter operated by Lincoln county in Ruidoso Downs;

33. twenty-five thousand dollars (\$25,000) for a teen court program in Luna county;

34. fifteen thousand dollars (\$15,000) to purchase and train a new drug dog, to be named Apollo, Jr., for McKinley county;

35. one hundred thousand dollars (\$100,000) for a special projects engineer in McKinley county;

36. sixty thousand dollars (\$60,000) for a special projects technician in McKinley county;

37. twenty-six thousand dollars (\$26,000) for personnel and products for the McKinley county community pantry;

38. thirty thousand dollars (\$30,000) to provide assistance to Mora county for technical and writing assistance for grants;

39. fifty thousand dollars (\$50,000) to Otero county for prisoner transportation;

40. fifty-seven thousand five hundred dollars (\$57,500) for the Flickinger center for performing arts in Alamogordo;

41. fifteen thousand dollars (\$15,000) to plan, promote and conduct the Espanola fiesta;

42. twenty-five thousand dollars (\$25,000) to conduct before- and after-school programs to address juvenile delinquency, domestic violence and educational inadequacies in Rio Rancho;

43. one hundred thousand dollars (\$100,000) for programs to support healthy marriage and healthy family living for parents and their children in Rio

Rancho;

44. twenty-five thousand dollars (\$25,000) for expenditure in fiscal years 2008 and 2009 to implement the Native American voting rights program in Sandoval county;

45. three hundred sixty thousand dollars (\$360,000) for methamphetamine treatment in San Juan county;

46. one hundred twenty-five thousand dollars (\$125,000) for methamphetamine, other drug and alcohol abuse and driving while intoxicated programs in San Juan county;

47. eighty thousand dollars (\$80,000) for the safe communities program in San Juan county;

48. one hundred four thousand dollars (\$104,000) for education and sports programs in the Farmington park and recreation department;

49. fifteen thousand dollars (\$15,000) for a pilot agricultural education program for youth in the valley of San Miguel del Vado;

50. seventy thousand dollars (\$70,000) for operating costs of various community centers in San Miguel county that are not located within the city limits of Las Vegas;

51. twenty-five thousand dollars (\$25,000) to update technology and train staff in Pecos;

52. fifty-five thousand dollars (\$55,000) for a staff position for a San Miguel county bureau of elections;

53. eighteen thousand dollars (\$18,000) for an athlete and coach leadership training program for junior wrestling at Santa Fe high school in the Santa Fe public school district;

54. thirty-five thousand dollars (\$35,000) to contract with a nonprofit organization to provide a music and visual and performing arts education program for at-risk youth and high-risk youth offenders incarcerated in correctional facilities in Santa Fe county;

55. twenty-five thousand dollars (\$25,000) for a teen court program in Santa Fe county;

56. ten thousand dollars (\$10,000) for acequia youth agriculture projects for Taos, Mora and San Miguel counties;

57. seventy thousand dollars (\$70,000) for community drug and alcohol programs in Talpa in Taos county;

58. twenty thousand dollars (\$20,000) for general operations for the Talpa community center;

59. twelve thousand dollars (\$12,000) for a community sports program at the Talpa community center;

60. twenty thousand dollars (\$20,000) to contract with a nonprofit organization to provide opportunities for Taos county youth to overcome personal and societal problems by learning entrepreneurial skills, studying worldwide economic development while serving as ambassadors from New Mexico and participating in design and construction training;

61. forty thousand dollars (\$40,000) for a full-time-equivalent position and other operational expenses for a trolley in Estancia;

62. fifty thousand dollars (\$50,000) for operational expenses of the driving while intoxicated memorial of perpetual tears in Moriarty;

63. twelve thousand dollars (\$12,000) to pay for bookkeeping and accounting services for Encino; and

64. forty-five thousand dollars (\$45,000) for operational expenses of the Tome-Adelino community center.

## **Chapter 21 Section 5 Laws 2007**

Section 5. NEW MEXICO SENTENCING COMMISSION PROJECTS.--The following amounts are appropriated from the general fund to the New Mexico sentencing commission for expenditure in fiscal year 2008 for the specified purposes and, unless otherwise indicated, any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund:

1. fifty thousand dollars (\$50,000) to contract for a study of and report on bias-based policing on a statewide basis; and

2. fifty thousand dollars (\$50,000) to study gender-specific probation and parole models; survey existing probation and parole participants on effectiveness of current programs; and make recommendations on implementing best practices in New Mexico.

## **Chapter 21 Section 6 Laws 2007**

Section 6. GOVERNOR'S OFFICE PROJECTS.--The following amounts are appropriated from the general fund to the governor's office for expenditure in fiscal year

2008 for the specified purposes and, unless otherwise indicated, any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund:

1. one hundred thousand dollars (\$100,000) to fund programs that support healthy marriage and healthy family living for parents and their children in Albuquerque; and

2. one hundred twenty-five thousand dollars (\$125,000) to provide advocacy and technical assistance and to act as a liaison for claimants seeking compensation pursuant to the federal Energy Employees Occupational Illness Compensation Program Act of 2000.

## **Chapter 21 Section 7 Laws 2007**

Section 7. STATE COMMISSION OF PUBLIC RECORDS PROJECTS.--The following amounts are appropriated from the general fund to the state commission of public records for expenditure in fiscal year 2008 for the specified purposes and, unless otherwise indicated, any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund:

1. forty-five thousand dollars (\$45,000) to prepare title abstracts of state-owned property located within former common lands of community land grants;

2. twenty-five thousand dollars (\$25,000) for the state historian's New Mexico history scholars program for fellowships and for the implementation of a lecture program; and

3. seventy-five thousand dollars (\$75,000) for the state historian's service learning student internship program.

## **Chapter 21 Section 8 Laws 2007**

Section 8. NEW MEXICO SPORTS AUTHORITY PROJECTS.--One hundred two thousand dollars (\$102,000) is appropriated from the general fund for expenditure in fiscal year 2008 to the New Mexico sports authority to support and promote the New Mexico bowl. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 21 Section 9 Laws 2007**

Section 9. TOURISM DEPARTMENT PROJECTS.--The following amounts are appropriated from the general fund to the tourism department for expenditure in fiscal year 2008 for the specified purposes and, unless otherwise indicated, any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund:

1. twenty thousand dollars (\$20,000) to promote wild horse tourism;
2. sixty-eight thousand dollars (\$68,000) for an international indigenous environmental film festival;
3. sixty-seven thousand dollars (\$67,000) to promote the tenth anniversary of the Georgia O'Keeffe museum;
4. eighty-five thousand dollars (\$85,000) for planning for an international conference on creative tourism to be held in Santa Fe;
5. ninety-eight thousand dollars (\$98,000) to promote Native American cultural tourism in Albuquerque;
6. fifty thousand dollars (\$50,000) to plan, promote and conduct the Santa Fe fiesta;
7. eighty thousand dollars (\$80,000) for the scenic byways program; and
8. two hundred thousand dollars (\$200,000) for personal services and employee benefits.

## **Chapter 21 Section 10 Laws 2007**

Section 10. ECONOMIC DEVELOPMENT DEPARTMENT PROJECTS.--The following amounts are appropriated from the general fund to the economic development department for expenditure in fiscal year 2008 for the specified purposes and, unless otherwise indicated, any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund:

1. one hundred ten thousand dollars (\$110,000) for certified business incubators in New Mexico;
2. thirty-five thousand dollars (\$35,000) to contract for manufacturing extension services, contingent upon the receipt of money from the national institute of standards and technology to operate a manufacturing center in New Mexico that is approved by that institute;
3. ten thousand dollars (\$10,000) for small cities economic development planning in southeastern New Mexico;
4. ten thousand dollars (\$10,000) to continue economic development through enterprise facilitation with leaders from several communities in Taos county;
5. fifteen thousand dollars (\$15,000) to support employee training and product development to promote economic development in Mora;

6. thirty-five thousand dollars (\$35,000) for new business recruiting statewide;
7. ten thousand dollars (\$10,000) for Mesilla valley economic development advertising;
8. twenty thousand dollars (\$20,000) for the New Mexico partnership; and
9. three hundred thousand dollars (\$300,000) for expansion of the New Mexico film division.

## **Chapter 21 Section 11 Laws 2007**

Section 11. REGULATION AND LICENSING DEPARTMENT PROJECT.--one hundred ninety-two thousand dollars (\$192,000) is appropriated from the general fund to the regulation and licensing department for expenditure in fiscal year 2008 and subsequent fiscal years for animal sheltering services, contingent upon the enactment into law of Senate Bill 458 or similar legislation of the first session of the forty-eighth legislature. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

## **Chapter 21 Section 12 Laws 2007**

Section 12. SPACEPORT AUTHORITY PROJECT.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the spaceport authority for expenditure in fiscal year 2008 for operational expenses. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 21 Section 13 Laws 2007**

Section 13. CULTURAL AFFAIRS DEPARTMENT PROJECTS.--The following amounts are appropriated from the general fund to the cultural affairs department for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the general fund:

1. twenty-five thousand dollars (\$25,000) to contract with a nonprofit music organization that organizes a competition in which children twelve years of age and under compete to hear their musical compositions performed in concert and recorded on compact disc;
2. one hundred thousand dollars (\$100,000) for family passes that promote the national Hispanic cultural center and allow children and their families one-time free admission to experience the arts and culture at the cultural center;

3. one hundred thousand dollars (\$100,000) for cultural and arts programs and educational outreach in Bernalillo county;

4. twenty-five thousand dollars (\$25,000) for a multidisciplinary Native American film festival in Bernalillo county;

5. one hundred six thousand dollars (\$106,000) to provide symphony orchestra music programs and concerts in Roswell;

6. fifty thousand dollars (\$50,000) for expenditure in fiscal year 2008 and subsequent fiscal years to the main street revolving loan fund to make loans pursuant to the Main Street Revolving Loan Act, contingent upon House Bill 1266 or similar legislation of the first session of the forty-eighth legislature becoming law;

7. fifty thousand dollars (\$50,000) for expenditure in fiscal years 2008 and 2009 for establishing and securing the reburial grounds and reburying remains and funerary objects of Native Americans, contingent upon House Bill 73 or similar legislation of the first session of the forty-eighth legislature becoming law;

8. fifty thousand dollars (\$50,000) for operational expenses at the Bosque Redondo memorial;

9. three hundred twenty thousand dollars (\$320,000) for the library division's grants-in-aid program for library services in El Rito, Embudo valley, Truchas and Abiquiu;

10. fifty thousand dollars (\$50,000) for the annual border book festival in Mesilla;

11. forty-five thousand dollars (\$45,000) for outreach programs at a science center and children's museum in Albuquerque;

12. sixty-five thousand dollars (\$65,000) to support a summer ballet festival in Albuquerque;

13. fifty thousand dollars (\$50,000) for a Santa Fe international folk art market;

14. fifty thousand dollars (\$50,000) to contract with a children's museum in Santa Fe for children's art and education programs;

15. seventy-five thousand dollars (\$75,000) to support performances of traditional and contemporary Native American performing arts in Santa Fe;

16. one hundred thousand dollars (\$100,000) for a media industries strategy project;

17. one hundred forty thousand dollars (\$140,000) for expansion of the New Mexico film museum;

18. eighty thousand dollars (\$80,000) for operational expenses of the fine arts museum; and

19. seventy-five thousand dollars (\$75,000) to restore music programs.

## **Chapter 21 Section 14 Laws 2007**

Section 14. NEW MEXICO LIVESTOCK BOARD PROJECT.--Two hundred thousand dollars (\$200,000) is appropriated from the general fund to the New Mexico livestock board for expenditure in fiscal year 2008 for operational expenses. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 21 Section 15 Laws 2007**

Section 15. DEPARTMENT OF GAME AND FISH PROJECT.--Twenty thousand dollars (\$20,000) is appropriated from the general fund to the department of game and fish for expenditure in fiscal year 2008 for wildlife education programs and wildlife rehabilitation. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 21 Section 16 Laws 2007**

Section 16. PARKS PROJECTS.--The following amounts are appropriated from the general fund to the energy, minerals and natural resources department for expenditure in fiscal year 2008 for the specified purposes and, unless otherwise indicated, any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund:

1. fifty thousand dollars (\$50,000) for operations and maintenance at the Rio Grande nature center state park in Albuquerque;

2. twenty thousand dollars (\$20,000) to support a statewide public school outdoor classroom program; and

3. twenty-five thousand dollars (\$25,000) for the Albuquerque shooting range park.

## **Chapter 21 Section 17 Laws 2007**

Section 17. INTERSTATE STREAM COMMISSION PROJECTS.--Thirty thousand dollars (\$30,000) is appropriated from the general fund to the interstate

stream commission for expenditure in fiscal year 2008 for the Estancia basin water planning committee to update the regional water plan, conduct a sub-basin study, perform an educational campaign and hire technical assistance, including a hydrologist. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 21 Section 18 Laws 2007**

Section 18. AFRICAN AMERICAN AFFAIRS PROJECTS.--The following amounts are appropriated from the general fund to the office of African American affairs for expenditure in fiscal year 2008 for the specified purposes and, unless otherwise indicated, any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund:

1. two hundred thousand dollars (\$200,000) for a pilot project to address education and health care disparities for African American children; and
2. sixty-five thousand dollars (\$65,000) for the African American performing arts center and exhibit hall at the New Mexico state fair for administrative services and associated costs that support the center in providing programs, resources and events for the community and the state.

## **Chapter 21 Section 19 Laws 2007**

Section 19. MARTIN LUTHER KING, JR. COMMISSION PROJECTS.--Ten thousand dollars (\$10,000) is appropriated from the general fund to the Martin Luther King, Jr. commission for expenditure in fiscal year 2008 for operational expenses. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 21 Section 20 Laws 2007**

Section 20. INDIAN AFFAIRS DEPARTMENT PROJECTS.--The following amounts are appropriated from the general fund to the Indian affairs department for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the general fund:

1. fifty thousand dollars (\$50,000) to employ a qualified person to be located in Shiprock and forty-two thousand dollars (\$42,000) to employ a qualified person to be located in Crownpoint to develop a database of veterans' profiles and statistics to provide an accurate count of Navajo veterans;
2. one hundred thousand dollars (\$100,000) for two caseworkers and operational costs associated with providing case management services to victims of radiation exposure or their surviving families located in New Mexico;

3. one hundred forty thousand dollars (\$140,000) to provide technical assistance and the fostering of partnerships with tribal communities, state agencies and private foundations to build capacity for community and economic development;

4. fifty-seven thousand dollars (\$57,000) for a comprehensive assessment of Indian education within the eight northern Indian pueblos;

5. thirty thousand dollars (\$30,000) to develop and implement an archival library system at the institute of American Indian arts;

6. fifty-seven thousand dollars (\$57,000) to fund youth development programs, including the youth leadership project, at the Tohatchi chapter of the Navajo Nation;

7. one hundred fifteen thousand dollars (\$115,000) for the tour of nations five-day bicycle ride;

8. ninety thousand dollars (\$90,000) to implement a culturally sensitive educational outreach program for Native American students;

9. fifty thousand dollars (\$50,000) for Native American economic development activities;

10. one hundred forty thousand dollars (\$140,000) to contract for the continued provision of a summer leadership and public policy academy that provides college preparation and leadership training for Native American high school students and involves a partnership between the Santa Fe Indian school and Harvard and Princeton universities;

11. twenty thousand dollars (\$20,000) for tribal programs by Indian nations, tribes and pueblos in Rio Arriba county to address substance abuse prevention and intervention; and

12. eighty thousand dollars (\$80,000) for a youth conservation program on the Navajo Nation that includes projects for riparian restoration, erosion control, arroyo banks stabilization, wildlife habitat improvement and plant protection.

## **Chapter 21 Section 21 Laws 2007**

Section 21. AGING AND LONG-TERM SERVICES DEPARTMENT PROJECTS.-  
-The following amounts are appropriated from the general fund to the aging and long-term services department for expenditure in fiscal year 2008 for the specified purposes and, unless otherwise indicated, any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund:

1. fifteen thousand dollars (\$15,000) to provide volunteer household assistance, transportation, organized activities and other services for Taos county senior citizens; and

2. thirty thousand dollars (\$30,000) for Ramah chapter senior services center programs.

## **Chapter 21 Section 22 Laws 2007**

Section 22. HUMAN SERVICES DEPARTMENT PROJECTS.--The following amounts are appropriated from the general fund to the human services department for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the general fund:

1. fifty-seven thousand dollars (\$57,000) to engage community volunteers to help low-income families become self-sufficient in Sandoval county; and

2. twenty thousand dollars (\$20,000) for a

parent-child education program for families in Chaparral, Anthony, Dona Ana and Sunland Park for children from birth to age three.

## **Chapter 21 Section 23 Laws 2007**

Section 23. OFFICE OF WORKFORCE TRAINING AND DEVELOPMENT PROJECTS.--The following amounts are appropriated from the general fund to the office of workforce training and development for expenditure in fiscal year 2008 for the specified purposes and, unless otherwise indicated, any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund:

1. forty thousand dollars (\$40,000) for the Grants youth employment program;

2. fifty thousand dollars (\$50,000) to contract with a community-based organization to support the continuation and expansion of out-of-school youth employment, service learning and general educational development certificate completion in Santa Fe county; and

3. twenty thousand dollars (\$20,000) for dropout prevention programs focusing on workforce training.

## **Chapter 21 Section 24 Laws 2007**

Section 24. DIVISION OF VOCATIONAL REHABILITATION PROJECT.--Ten thousand dollars (\$10,000) is appropriated from the general fund to the vocational rehabilitation division of the public education department for expenditure in fiscal year

2008 and subsequent fiscal years to enhance employment opportunities for persons with disabilities through implementation of the State Use Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

## **Chapter 21 Section 25 Laws 2007**

Section 25. GOVERNOR'S COMMISSION ON DISABILITY PROJECT.--Twenty-five thousand dollars (\$25,000) is appropriated from the general fund to the governor's commission on disability to provide a driver's rehabilitation program for disabled persons. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 21 Section 26 Laws 2007**

Section 26. DEPARTMENT OF HEALTH PROJECTS.--The following amounts are appropriated from the general fund to the department of health for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the general fund:

1. three hundred seventy-seven thousand dollars (\$377,000) for parent training and to enhance provider capacity-building for autism spectrum disorder and related conditions statewide;

2. two hundred ninety thousand dollars (\$290,000) for operational funds of a respite home in senate district 23 for families with autistic or other developmentally disabled children not yet receiving other services from the state and who are on the developmental disability waiting list;

3. twenty-seven thousand dollars (\$27,000) to conduct environmental assessments of public schools pursuant to the indoor air quality tools for schools program;

4. one hundred ten thousand dollars (\$110,000) for therapists at the department of health or department-funded facilities and Native American organizations that provide similar services to attend a two-week training program for the treatment of sexually abusive youth;

5. forty thousand dollars (\$40,000) to develop a testing protocol, develop and establish a health registry, contract with appropriate testing laboratories and coordinate affected parties in regard to a voluntary testing program for military veterans who may have been exposed to depleted uranium or other isotopes in the Persian Gulf war or in the current Iraq or Afghanistan conflict;

6. thirty thousand dollars (\$30,000) to support and strengthen a fetal alcohol syndrome prevention program at the university of New Mexico;
7. fifty thousand dollars (\$50,000) to provide rape crisis services in central New Mexico;
8. ninety-two thousand dollars (\$92,000) to provide services to indigent cancer patients in Chaves, Eddy, Lea and Lincoln counties, including home health services, medications and transportation;
9. seventy-five thousand dollars (\$75,000) to provide payment for perinatal services, including prenatal, delivery and postnatal services, for uninsured low-income pregnant women with high-risk conditions in Dona Ana county;
10. one hundred twenty-five thousand dollars (\$125,000) to fund the five agencies currently operating in a one-stop center established in Dona Ana county to address the needs of the homeless community ~~so that each of the five agencies receives twenty-five thousand dollars (\$25,000);~~
11. twelve thousand dollars (\$12,000) for emergency medicine dispensing services in Dona Ana county;
12. forty thousand dollars (\$40,000) to address unmet needs of the uninsured in Dona Ana county;
13. sixty thousand dollars (\$60,000) for ambulance services in Mora county;
14. one hundred thousand dollars (\$100,000) for women's health services in Santa Fe;
15. sixty thousand dollars (\$60,000) for ambulance services in Pecos;
16. thirty thousand dollars (\$30,000) for the San Miguel center health professional center in San Miguel county;
17. three hundred sixty thousand dollars (\$360,000) for expenditure in fiscal year 2008 and subsequent fiscal years for a regional alcohol detoxification and treatment center in De Baca county and for alcohol and substance abuse treatment continuum of care initiatives in Curry, De Baca, Guadalupe, Harding, Quay, Roosevelt, San Miguel and Union counties;
18. one hundred thirty thousand dollars (\$130,000) for a preventive health pilot program in rural areas of northwestern New Mexico that works to identify and improve the health of persons suffering from diabetes, heart disease, obesity or other preventable health conditions;

19. fifty thousand dollars (\$50,000) for a telehealth program serving children, families and health care providers in New Mexico's rural areas for training, education, case conferencing and clinical consultation targeted toward childhood diabetes and obesity, developmental disabilities early intervention, mental health of children under five years of age, pediatric asthma and other pediatric specialities;

20. twenty thousand dollars (\$20,000) to coordinate and assist in implementation of telemedicine programs and projects throughout the state through contracting with a qualified nonprofit organization with demonstrated expertise in the knowledge and coordination of clinical services delivery and technical support of telehealth programs;

21. seventy-three thousand dollars (\$73,000) to provide training and related services for primary care residents in southwestern New Mexico to help rural communities recruit and retain physicians pursuant to the Rural Primary Health Care Act;

22. twenty-five thousand dollars (\$25,000) to contract with a nonprofit organization providing dance instruction and performance to implement an anti-obesity, nutrition education, self-esteem and fitness dance program for low-income, at-risk children in public elementary and middle schools statewide;

23. three hundred thousand dollars (\$300,000) for teen pregnancy prevention programs statewide;

24. one hundred fifty thousand dollars (\$150,000) to implement electronic patient health records in primary care clinics eligible to receive funds under the Rural Primary Health Care Act to assist these primary care clinics in developing analyzable, comprehensive patient records;

25. thirty-five thousand dollars (\$35,000) for six pilot detoxification programs using acupuncture to treat substance abuse, especially in traditionally underserved populations such as women and children of color, at-risk youth, low-income persons, victims of violence and those with concurrent mental health problems;

26. two hundred thousand dollars (\$200,000) for behavioral health services for veterans;

27. one hundred thousand dollars (\$100,000) for compulsive gambling treatment and training programs for behavioral health providers;

28. five hundred thousand dollars (\$500,000) for children's medical specialty clinics and hearing, vision and oral health services for children;

29. one million dollars (\$1,000,000) for trauma services statewide;

30. eighty thousand dollars (\$80,000) for the women's health advisory council;

31. thirty thousand dollars (\$30,000) for a nonprofit organization's clubhouse model day program designed for people with severe mental illness, aiding in the recovery of such people through socialization and life skills; vocational rehabilitation and employment services; weekend, evening and holiday programs; educational and housing services; and reintegration into the larger community;

32. seventy-five thousand dollars (\$75,000) to contract with a nonprofit organization dedicated to providing dental care for indigent people in various communities in New Mexico;

33. five hundred thousand dollars (\$500,000) for Native American health care planning and services, contingent upon House Bill 784 or similar legislation of the first session of the forty-eighth legislature becoming law;

34. two hundred twenty-five thousand dollars (\$225,000) for sexual violence prevention programs for the disability community; primary prevention of child sexual abuse programs; sexual violence crisis center service improvement; and sexual violence prevention, intervention and treatment to increase and improve services to populations disproportionately affected by sexual violence;

35. thirty thousand dollars (\$30,000) for a traditional healing training program in northern New Mexico for treating people with substance abuse and related disorders;

36. sixty thousand dollars (\$60,000) for substance abuse programs in Eddy county;

37. twenty-five thousand dollars (\$25,000) to contract with a nonprofit organization dedicated to providing dental care for indigent people in Lea county;

38. one hundred thousand dollars (\$100,000) for ambulance and related emergency services in Columbus;

39. seventy-five thousand dollars (\$75,000) to contract for ambulance services for Cuba;

40. twenty-five thousand dollars (\$25,000) to purchase electronic health records software for the Mora valley community health center;

41. fifteen thousand dollars (\$15,000) to contract with a youth commission for youth program in Las Vegas focused on substance abuse and suicide prevention that involves training youth in government so they can train their peers in other communities;

42. twenty thousand dollars (\$20,000) to contract for long-term drug and alcohol abuse rehabilitation in Taos county;

43. two hundred fifty thousand dollars (\$250,000) for residential and community substance abuse treatment at a central New Mexico substance abuse and training facility; and

44. seventy thousand dollars (\$70,000) to establish and operate a project for veterans who need primary care and treatment for post-traumatic stress disorders.

## **Chapter 21 Section 27 Laws 2007**

Section 27. DEPARTMENT OF ENVIRONMENT PROJECTS.--The following amounts are appropriated from the general fund to the department of environment for expenditure in fiscal year 2008 for the specified purposes and, unless otherwise indicated, any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund:

1. one hundred thousand dollars (\$100,000) to study the feasibility of the "green both ways" program, which is a market-based approach to environmental conservation and protection;

2. fifty thousand dollars (\$50,000) to initiate, with the department of health, a comprehensive plan to reduce human and wildlife exposure to mercury; and

3. one hundred twelve thousand dollars (\$112,000) to repay the Hanover mutual domestic water consumers association's rural infrastructure loan for constructing water supply facilities.

## **Chapter 21 Section 28 Laws 2007**

Section 28. NEW MEXICO HEALTH POLICY COMMISSION PROJECT.--Twenty thousand dollars (\$20,000) is appropriated from the general fund to the New Mexico health policy commission for expenditure in fiscal year 2008 to study malpractice insurance issues of physicians and midwives and to study birthing options. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 21 Section 29 Laws 2007**

Section 29. VETERANS' SERVICES DEPARTMENT PROJECT.--Twenty thousand dollars (\$20,000) is appropriated from the general fund to the veterans' services department for expenditure in fiscal year 2008 to contract for veterans' transportation services in southeastern New Mexico. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 21 Section 30 Laws 2007**

Section 30. CHILDREN, YOUTH AND FAMILIES DEPARTMENT PROJECTS.--  
The following amounts are appropriated from the general fund to the children, youth and families department for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the general fund:

1. fifty thousand dollars (\$50,000) for the heart gallery programs and outreach for children in foster care who are available for adoption;

2. seventy-five thousand dollars (\$75,000) for domestic violence programs statewide;

3. one hundred twenty-five thousand dollars (\$125,000) to provide services to homeless children in Bernalillo county;

4. fifty thousand dollars (\$50,000) for flexible wrap-around behavioral health services in the third judicial district;

5. forty-seven thousand dollars (\$47,000) for parent and child education programs in Dona Ana county;

6. one hundred thousand dollars (\$100,000) to establish a technical assistance resource center to support the disproportionate minority contact blue ribbon panel in its efforts to reduce disparate treatment of youth in the juvenile justice system;

7. thirty-five thousand dollars (\$35,000) to expand at-home infant care programs;

8. thirty-five thousand dollars (\$35,000) to develop a comprehensive, long-range plan to phase in a statewide system of universal voluntary home visiting that serves new families during pregnancy and continuing for up to three years;

9. one hundred forty-five thousand dollars (\$145,000) to develop and maintain the infrastructure and staff and evaluate and provide critical resource supports for an early childhood mental health training institute that uses a continuum of care model based on national best practices; provided that this appropriation may be expended in subsequent fiscal years;

10. twenty thousand dollars (\$20,000) to contract with a community-based organization to increase social interactions for children and young adults with autism spectrum disorders and provide training for staff and caregivers in Dexter;

11. twenty-seven thousand dollars (\$27,000) to contract with the Roswell recreation department to coordinate an educational science festival for fourth, fifth and sixth grades and other gifted students in southeastern New Mexico;

12. thirty-five thousand dollars (\$35,000) for parent and child education programs in Dona Ana county;

13. seventy thousand dollars (\$70,000) to continue the operation of the New Mexico juvenile justice commission;

14. eighty thousand dollars (\$80,000) for expenses of the youth alliance;

15. two million dollars (\$2,000,000) for  
pre-kindergarten;

16. fifty thousand dollars (\$50,000) for the juvenile probation evening reporting program in Lea county;

17. fifty thousand dollars (\$50,000) for activities of the children's trust fund;

18. one hundred thousand dollars (\$100,000) for matching funds for title 4-B, subpart 2 for Dona Ana county;

19. one hundred thousand dollars (\$100,000) for a one-year intensive residential program in Albuquerque teaching life skills to at-risk teen mothers and providing a safe and supportive environment for their babies;

20. forty thousand dollars (\$40,000) for domestic violence shelter operations in Lincoln county;

21. forty-three thousand seven hundred dollars (\$43,700) for domestic violence programs in Ruidoso Downs;

22. thirty thousand dollars (\$30,000) for domestic violence shelter operations in Roswell;

23. forty-seven thousand dollars (\$47,000) for domestic violence programs in Eddy county; and

24. forty thousand dollars (\$40,000) for youth programs in Otero county.

## **Chapter 21 Section 31 Laws 2007**

Section 31. CRIME VICTIMS REPARATION COMMISSION PROJECT.--Eighty thousand dollars (\$80,000) is appropriated from the general fund to the crime victims reparation commission for expenditure in fiscal year 2008 for expenses related to the domestic violence homicide review team. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 21 Section 32 Laws 2007**

Section 32. DEPARTMENT OF MILITARY AFFAIRS PROJECTS.--The following amounts are appropriated from the general fund to the department of military affairs for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the general fund:

1. fifty thousand dollars (\$50,000) to provide active duty military personnel in war zones with protective equipment;
2. fifty thousand dollars (\$50,000) to develop and implement an in-service training program for members of the civil air patrol division;
3. sixty thousand dollars (\$60,000) to the crisis response program 722 to provide for a drug demand reduction program through the civil air patrol cadet program for at-risk middle and high school students.

## **Chapter 21 Section 33 Laws 2007**

Section 33. DEPARTMENT OF PUBLIC SAFETY PROJECTS.--The following amounts are appropriated from the general fund to the department of public safety for expenditure in fiscal year 2008 for the specified purposes and, unless otherwise indicated, any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund:

1. fifty thousand dollars (\$50,000) for the board of directors of the New Mexico mounted patrol to develop and implement an in-service law enforcement training program for members of the mounted patrol;
2. fifty-five thousand dollars (\$55,000) for hazardous materials awareness training;
3. one hundred thousand dollars (\$100,000) for the Lea county crime laboratory in Hobbs to serve all of southeastern New Mexico;
4. thirty thousand dollars (\$30,000) for garage equipment and supplies in district 6;
5. fifty thousand dollars (\$50,000) for a juvenile crime and violence prevention program in Albuquerque that supports civic, athletic, recreational and educational opportunities for youth; and

6. twenty-five thousand dollars (\$25,000) to conduct before- and after-school programs in Albuquerque to address juvenile delinquency, domestic violence and educational inadequacies.

## **Chapter 21 Section 34 Laws 2007**

Section 34. DEPARTMENT OF TRANSPORTATION PROJECT.--Thirty thousand dollars (\$30,000) is appropriated from the general fund to the department of transportation for expenditure in fiscal year 2008 to support a supplementary six-hour course for persons convicted of driving while intoxicated, which course shall be taken within one year following the convicted offender's completion of the initial driving while intoxicated program. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 21 Section 35 Laws 2007**

Section 35. PUBLIC EDUCATION DEPARTMENT PROJECTS.--The following amounts are appropriated from the general fund to the public education department for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the general fund:

1. thirty thousand dollars (\$30,000) for professional development in social studies and civics statewide;

2. fifty-six thousand five hundred twenty dollars (\$56,520) for character counts leadership training for public school principals and local superintendents statewide;

3. one hundred sixty-three thousand dollars (\$163,000) for an agreement with one or both national laboratories in New Mexico to recruit, train and equip mathematicians and scientists to offer middle, junior and high school mathematics and science distance learning courses and to market those courses to schools around the country;

4. one hundred twenty thousand dollars (\$120,000) to be evenly divided among the school districts in senate district 7 that have enrollments of one thousand students or fewer for the purchase and installation of information technology, for the purchase or development of distance education courses or for professional development;

5. fifty thousand dollars (\$50,000) to provide autism services statewide, including professional development for educators in the area of autism spectrum disorders, classroom consultations for educators and outreach for students and their families;

6. thirteen thousand dollars (\$13,000) to contract for a program to develop and implement an interdisciplinary international education curriculum using international films for middle school students statewide;

7. seventy-five thousand dollars (\$75,000) to provide autism services in senate district 7, including professional development for educators in the area of autism spectrum disorders, classroom consultations for educators and outreach for students and their families;

8. ninety-five thousand three hundred dollars (\$95,300) for band uniforms for the Alamogordo public schools;

9. one hundred fifty thousand dollars (\$150,000) for a summer literacy camp geared toward Hispanic and Native American third grade students at Carlos Rey, Atrisco and La Promesa public schools in the Albuquerque public school district;

10. one hundred fifty thousand dollars (\$150,000) for costs associated with the professional development plan at the Eldorado high school cluster in the Albuquerque public school district;

11. fifty thousand dollars (\$50,000) for costs associated with the professional development plan at La Cueva high school cluster in the Albuquerque public school district;

12. thirty thousand dollars (\$30,000) for after-school enrichment programs at twenty-first century community learning centers in the south valley of Albuquerque;

13. one hundred thousand dollars (\$100,000) for alternatives to out-of-school suspensions at the Belen and Los Lunas school districts;

14. two hundred fifty thousand dollars (\$250,000) for the promise for success program at the Gadsden independent school district to assess existing youth services and identify gaps in services and funding opportunities;

15. fifteen thousand dollars (\$15,000) for the fiesta educativa parent conference and outreach activities in the Gadsden independent school district;

~~16. fifty thousand dollars (\$50,000) for the cada cabeza es un mundo project for the Las Vegas city school district;~~

17. one hundred five thousand dollars (\$105,000) for expansion of synchronous course offerings at the Rio Rancho cyber academy in the Rio Rancho public school district;

18. one hundred thousand (\$100,000) for the after school power academy for learning in the Santa Fe public school district;

19. two million dollars (\$2,000,000) for

after-school enrichment programs;

20. two million dollars (\$2,000,000) for expenses related to providing breakfast for elementary school students;

21. six hundred fifty thousand dollars (\$650,000) to provide before- and after-school programs that include physical activity and nutrition;

22. two million dollars (\$2,000,000) for

pre-kindergarten;

23. two hundred thirty thousand dollars (\$230,000) for a statewide school safety crime stoppers program;

24. twenty-one thousand dollars (\$21,000) for student support programs in the Hondo Valley school district;

25. thirty-four thousand dollars (\$34,000) for student support programs in the Cloudcroft municipal school district;

26. twenty thousand dollars (\$20,000) for athletics at Roswell high school;

27. eleven thousand dollars (\$11,000) for program services at Roswell high school;

28. fifteen thousand dollars (\$15,000) for athletic programs in the Roswell independent school district;

29. seventy-five thousand dollars (\$75,000) for Saturday school programs for at-risk high school students in the Grants-Cibola county school district;

30. ten thousand dollars (\$10,000) for a pilot program for behavior modification in the Pecos independent school district;

31. ten thousand dollars (\$10,000) for school transportation safety and equipment training;

32. fifteen thousand dollars (\$15,000) for student participation in an educational program that promotes and supports the development of citizens committed to democratic principles and active participation in representative government through the study of law, civics and government in elementary and secondary schools;

33. seventeen thousand dollars (\$17,000) to implement a violence prevention program at West Las Vegas and Robertson high schools in Las Vegas;

34. forty thousand dollars (\$40,000) to contract with a nonprofit organization dedicated to improving science education to provide teacher training and in-class mentors and to integrate hands-on science techniques into standard curricula in the Santa Fe public school district;

35. one hundred fifty-five thousand dollars (\$155,000) for a college readiness and high school redesign initiative in the Los Lunas public school district;

36. twenty-five thousand dollars (\$25,000) to acquire and distribute the digital video disc "Nuestras Acequias" to public school libraries;

37. thirty thousand dollars (\$30,000) to contract through the Espanola public school district for provision of summer enrichment programs for youth in Truchas, Ojo Sarco and Cordova;

38. ninety-seven thousand dollars (\$97,000) for after-school learning centers in the Mountainair public school district;

39. twenty-five thousand dollars (\$25,000) to implement the newly defined mission for Taos high school;

40. thirty-five thousand dollars (\$35,000) for after-school programs for elementary and middle school children in the Espanola public school district;

41. sixty thousand dollars (\$60,000) for after-school programs for elementary and middle school children in the Pojoaque Valley public school district;

42. five thousand dollars (\$5,000) to purchase and distribute tickets to school students for semiprofessional basketball games;

43. fifty thousand dollars (\$50,000) for the Santa Fe public school district to develop and implement a Santa Fe youth court as an alternative method to deal with school-based offenses; and

44. seventy-five thousand dollars (\$75,000) for after-school mathematics and reading tutoring programs in the Belen consolidated school district.

## **Chapter 21 Section 36 Laws 2007**

Section 36. HIGHER EDUCATION DEPARTMENT PROJECTS.--The following amounts are appropriated from the general fund to the higher education department for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise

indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the general fund:

1. fifty thousand dollars (\$50,000) for expenditure in fiscal year 2008 and subsequent fiscal years to provide matches for higher education scholarships offered by a New Mexico-based nonprofit foundation that has provided annual needs- and merit-based scholarships to New Mexico high school students totaling at least one hundred thousand dollars (\$100,000) each year for the last five years; provided that no money from this appropriation shall be used for any operational expenses of the department or the foundation;

2. thirty-five thousand dollars (\$35,000) for a study to establish an equitable salary schedule for part-time faculty for public post-secondary educational institutions;

3. thirty thousand dollars (\$30,000) for a learning center in Raton;

4. one hundred thousand dollars (\$100,000) for an association of community colleges to implement distance learning;

5. for Mesalands community college:

(a) twenty-five thousand dollars (\$25,000) for the intercollegiate rodeo program; and

(b) one hundred fifty thousand dollars (\$150,000) for the wind training center;

6. for San Juan college, eighty thousand dollars (\$80,000) to continue a San Juan county program at an educational and recreational center to help underprivileged youth gain educational and moral values;

7. for Luna community college:

(a) twenty thousand dollars (\$20,000) for the youth college program, including participation fees, transportation, student learning kits, instructional supplies and post-program evaluations;

(b) fifty thousand dollars (\$50,000) for a softball program; and

(c) ten thousand dollars (\$10,000) for the Rough Riders baseball program;

8. for Clovis community college:

(a) twenty-five thousand dollars (\$25,000) for a faculty position in manufacturing; and

(b) twenty-five thousand dollars (\$25,000) for an industrial technology training program; and

9. for New Mexico junior college:

(a) one hundred one thousand dollars (\$101,000) for operational expenses of the western heritage museum;

(b) one hundred thousand dollars (\$100,000) for operational expenses of the western heritage museum and the Lea county cowboy hall of fame;

(c) fifty thousand dollars (\$50,000) for operational costs of the southeastern law enforcement academy;

(d) two hundred seventy-five thousand dollars (\$275,000) for an oil and gas training center.

## **Chapter 21 Section 37 Laws 2007**

Section 37. UNIVERSITY OF NEW MEXICO PROJECTS.--The following amounts are appropriated from the general fund to the board of regents of the university of New Mexico for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the general fund:

1. two hundred seven thousand dollars (\$207,000) for one or more full-time-equivalent professors and other expenses of the Native American studies program;

2. seventy-five thousand dollars (\$75,000) for one full-time-equivalent position to research and teach the Navajo language in the Native American studies program;

3. seventy-five thousand dollars (\$75,000) for a Chicano, Hispano, Mexicano studies program;

4. eighty-five thousand dollars (\$85,000) for African American student services programs and operations;

5. two hundred ninety thousand dollars (\$290,000) to expand the sustainability studies program;

6. three hundred fifty-seven thousand dollars (\$357,000) for the department of media arts at the main campus;

7. seventy-five thousand dollars (\$75,000) for the indigenous library program;

8. seventy thousand dollars (\$70,000) for the department of media arts to provide media training and outreach for youth in Albuquerque;

9. two hundred eighty thousand dollars (\$280,000) to expand the university's international education initiatives;

10. three hundred seventy-two thousand dollars (\$372,000) to expand the biomedical engineering program;

11. for the health sciences center:

(a) three hundred twelve thousand dollars (\$312,000) for the integrative medicine program at the school of medicine;

(b) thirty-five thousand dollars (\$35,000) to expand the nurse advice line to cover uninsured callers;

(c) fifty-seven thousand dollars (\$57,000) to sustain and improve medical research involving outpatient medicine through continuing medical education, clinical research and outreach programs for rural clinicians and to support retention of clinicians in underserved areas;

(d) ten thousand dollars (\$10,000) for the pediatric department's telehealth programs to help rural health providers and school-based health centers to treat and prevent childhood obesity through telehealth consultation;

(e) two hundred twenty-five thousand dollars (\$225,000) for salary increases for statewide staff of the New Mexico poison and drug information center of the college of pharmacy;

(f) one hundred fifty thousand dollars (\$150,000) for operating expenses at the young children's health center in Albuquerque;

(g) fifty thousand dollars (\$50,000) for a multidisciplinary evaluation clinic for children with neurodevelopmental disorders, including autism spectrum disorder; and

(h) fifty-seven thousand dollars (\$57,000) to create a cooperative pharmacy program in conjunction with New Mexico state university;

12. for the law school:

(a) twenty-five thousand dollars (\$25,000) for the Corinne Wolfe children's law center to provide training, technical assistance and research concerning abuse and neglect and juvenile justice;

(b) one hundred twenty thousand dollars (\$120,000) for operational funding for the Corinne Wolfe children's law center;

(c) one hundred thousand dollars (\$100,000) for the Utton transboundary resources center operational expenses;

(d) one hundred ninety-one thousand dollars (\$191,000) for the Utton transboundary resources center to provide ombudsman services for pending stream adjudications;

(e) seventy-five thousand dollars (\$75,000) for a college preparatory mentoring program for children in the eighth through twelfth grades in the Albuquerque public schools; and

(f) twenty-five thousand dollars (\$25,000) for a national Latino and Latina law student conference;

13. one hundred fifty-seven thousand dollars (\$157,000) for scholarships for students enrolled in the reserve officer training corps;

14. two hundred seventy-five thousand dollars (\$275,000) for programs and support services to enhance student-athlete retention and timely graduation;

15. forty thousand dollars (\$40,000) to create a college mentoring program that trains graduate and undergraduate students to mentor high school and other college students;

16. one hundred forty-five thousand dollars (\$145,000) to enhance pre-college science and mathematics skills and conduct a summer mathematics and science camp for minority students through the college of engineering special programs;

17. forty-five thousand dollars (\$45,000) to the bureau of business and economic research to conduct a study of the feasibility of incorporating the south valley of Bernalillo county;

18. thirty thousand dollars (\$30,000) to expand the resource center for raza planning;

19. one hundred thousand dollars (\$100,000) to expand the institute for aerospace engineering;

20. one hundred fifty thousand dollars (\$150,000) for the center for regional studies;

21. forty thousand dollars (\$40,000) for the Alfonso Ortiz center for intercultural studies to meet the challenge of developing a new relevance for anthropology;

22. one hundred thousand dollars (\$100,000) to support the Julian Samora legacy project, which is a collaboration among the university of Texas, Michigan state university, the university of Notre Dame and the university of New Mexico to make the papers of anthropologist Julian Samora more accessible for research;
23. fifty thousand dollars (\$50,000) to create the research service learning program;
24. fifty thousand dollars (\$50,000) for a theatre company in residence at the department of theatre and dance;
25. two hundred sixty-seven thousand eight hundred dollars (\$267,800) to contract with a private entity in Bernalillo county to operate a secure, long-term, statewide, multijurisdictional residential rehabilitation and transition facility that admits persons who have been ordered to the facility by a New Mexico court;
26. forty-five thousand dollars (\$45,000) for the Anderson school of management to provide a consultant to prepare a strategic plan for an entrepreneurship program at northern New Mexico college;
27. twenty thousand dollars (\$20,000) for licensed alcohol and drug counselor internship initiatives;
28. thirty-five thousand dollars (\$35,000) for students to use mass transit to attend the university;
29. thirty thousand dollars (\$30,000) to bridge the achievement gap for high school students and first-year university students to prepare for university coursework in the field of African American studies and to provide for fellowships and assistantships for graduate and post-doctoral students and distinguished lecture series in African American studies;
30. twenty-five thousand dollars (\$25,000) for programs at the center for Latin American resources and outreach;
31. thirty thousand dollars (\$30,000) for the Anderson school of management to provide a consultant to prepare a strategic plan for an entrepreneurship program at the Gallup branch;
32. thirty-five thousand dollars (\$35,000) for the Gallup branch library;
33. two hundred thousand dollars (\$200,000) for the Taos branch to develop and implement a partnership with local schools and community groups for manpower development;
34. ninety-two thousand dollars (\$92,000) to create a college mentoring program.

## Chapter 21 Section 38 Laws 2007

Section 38. NEW MEXICO STATE UNIVERSITY PROJECTS.--The following amounts are appropriated from the general fund to the board of regents of New Mexico state university for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the general fund:

1. fifty thousand dollars (\$50,000) for the animal and range sciences judging program;
2. for the college of health and social services:
  - (a) twenty-five thousand dollars (\$25,000) to educate psychiatric nurse practitioners and clinical nurse specialists through the school of nursing's mental health improvement program; and
  - (b) fifty-seven thousand dollars (\$57,000) for the family wellness program;
3. fifty thousand dollars (\$50,000) for a virtual film school in the creative media institute for film and digital arts for the college of extended learning;
4. ten thousand dollars (\$10,000) for undergraduate students in the art department to travel to out-of-town art shows;
5. one hundred two thousand dollars (\$102,000) for the space consortium and outreach program;
6. one hundred seventy-five thousand dollars (\$175,000) for the alliance for the advancement of teaching and learning;
7. fifty thousand dollars (\$50,000) for the center for economics and personal finance education to expand and strengthen its ongoing economics education program, including teacher outreach and training, curriculum development and distribution and programs for high school students and their families in economics and personal finance;
8. three hundred seven thousand dollars (\$307,000) for the college assistance migrant program;
9. twenty thousand dollars (\$20,000) to expand the programs approved by the national collegiate athletic association;
10. seventeen thousand dollars (\$17,000) for the southwest institute for early childhood research and development;
11. forty thousand dollars (\$40,000) for a summer drama program;

12. twenty thousand dollars (\$20,000) for the English teacher collaboration program, which provides professional development for teachers of secondary and post-secondary English;

13. fifty thousand dollars (\$50,000) for a manager for the Fabian Garcia horticulture research garden;

14. forty-three thousand seven hundred dollars (\$43,700) for the equestrian program;

15. one hundred thousand dollars (\$100,000) for nursing scholarships ~~at the Alamogordo and Carlsbad branches;~~

16. twenty thousand dollars (\$20,000) to purchase textbooks for use of students in the library at the Alamogordo branch;

17. thirty thousand dollars (\$30,000) to purchase textbooks for use of students in the library at the Dona Ana branch;

18. fifty thousand dollars (\$50,000) to support continued program development at the Grants branch for training film technicians, including purchase of equipment, supplies and film and providing stipends for industry mentors to train students;

19. thirty thousand dollars (\$30,000) for the allied medical program at the Grants branch;

20. to the New Mexico department of agriculture:

(a) three hundred sixty-two thousand dollars (\$362,000) to support the chile industry in New Mexico, including research and development for chile harvesting solutions;

(b) forty-five thousand dollars (\$45,000) to establish and operate a food processing and testing center on the main campus;

(c) thirty thousand dollars (\$30,000) for the east Torrance soil and water conservation district to conduct education and training programs;

(d) one hundred seventy thousand dollars (\$170,000) for nonnative phreatophyte removal and riparian restoration ~~in San Juan county, to be managed with the advice and participation of the San Juan soil and water conservation district;~~

(e) eighty-five thousand dollars (\$85,000) to provide New Mexico grown fresh fruits and vegetables to the Valley high school cluster in the Albuquerque public school district;

(f) seventy-nine thousand dollars (\$79,000) for handheld inspection devices for department inspectors;

(g) forty-two thousand dollars (\$42,000) for the Socorro soil and water conservation district to plan, design, implement and construct habitat restoration on the Rio Grande in Socorro county;

(h) twenty-five thousand dollars (\$25,000) to expand programming and revenue for the Santa Fe farmers' market;

(i) seven thousand dollars (\$7,000) to support pink bollworm control districts;

(j) seventy-five thousand dollars (\$75,000) for economic development, research and pest protection to serve the pecan industry;

(k) twenty-five thousand dollars (\$25,000) to market New Mexico-grown wheat internationally and domestically; and

(l) ten thousand dollars (\$10,000) to contract with a nonprofit organization for an acequia agricultural youth project;

21. two hundred thirty-seven thousand dollars (\$237,000) for program enhancements at the agricultural science center at Clovis;

22. thirty-five thousand dollars (\$35,000) for program enhancements related to dairy extension education and research at the agricultural science center at Clovis; and

23. to the cooperative extension service:

(a) seventy-five thousand dollars (\$75,000) to support the activities of the stem 4-H youth development programs in the Las Vegas city school district;

(b) ninety-seven thousand dollars (\$97,000) for start-up costs of five proposed tribal cooperative extension centers to provide a base for intercultural youth programs, health-based programs and natural resource and agricultural information services that are currently not available in the targeted New Mexico tribal communities;

(c) sixty-four thousand dollars (\$64,000) to provide teaching, research and extension services to small sustainable agriculture farmers;

(d) forty thousand dollars (\$40,000) for 4-H operations and outreach programs in Chaves and Eddy counties;

(e) one hundred forty-five thousand dollars (\$145,000) for 4-H program activities;

(f) twenty thousand dollars (\$20,000) for future farmers of America outreach programs; and

(g) fifty thousand dollars (\$50,000) to develop, in conjunction with the university of New Mexico health sciences center, a comprehensive joint plan for a sustainable health cooperative extension rural office system to serve ten rural county extension offices to address local health priorities.

## **Chapter 21 Section 39 Laws 2007**

Section 39. NEW MEXICO HIGHLANDS UNIVERSITY PROJECTS.--The following amounts are appropriated from the general fund to the board of regents of New Mexico highlands university for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the general fund:

1. one hundred fifty thousand dollars (\$150,000) for the wrestling program;
2. fifteen thousand dollars (\$15,000) for the Upward Bound program;
3. one hundred thirty-four thousand dollars (\$134,000) for the intercollegiate rodeo program; and
4. twenty thousand dollars (\$20,000) to establish a training center for medical-health interpreters.

## **Chapter 21 Section 40 Laws 2007**

Section 40. WESTERN NEW MEXICO UNIVERSITY PROJECTS.--The following amounts are appropriated from the general fund to the board of regents of western New Mexico university for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund:

1. fifty thousand dollars (\$50,000) to increase the athletics budget;
2. one hundred seventy-five thousand dollars (\$175,000) for the criminal justice program; and
3. twenty-five thousand dollars (\$25,000) for the nursing program.

## **Chapter 21 Section 41 Laws 2007**

Section 41. EASTERN NEW MEXICO UNIVERSITY PROJECTS.--The following amounts are appropriated from the general fund to the board of regents of eastern New

Mexico university for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the general fund:

1. one hundred seventy-five thousand dollars (\$175,000) for the college of education and technology to provide professional development for teachers through distance education;
2. one hundred thirty thousand dollars (\$130,000) for intercollegiate athletics;
3. ninety-eight thousand dollars (\$98,000) for a supplemental instruction program to provide advanced tutoring to students in high-risk classes;
4. fifty-four thousand dollars (\$54,000) for operation of the speech and hearing rehabilitation outreach center;
5. ninety-five thousand dollars (\$95,000) for a kindergarten through twelfth grade science and mathematics teacher development program; and
6. for the Roswell branch:
  - (a) ninety-five thousand dollars (\$95,000) for a faculty position in aviation science technology;
  - (b) ninety-five thousand dollars (\$95,000) for a faculty position in emergency medical services management; and
  - (c) forty-three thousand eight hundred dollars (\$43,800) for adult basic education at the Ruidoso branch.

## **Chapter 21 Section 42 Laws 2007**

Section 42. NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY PROJECTS.--The following amounts are appropriated from the general fund to the board of regents of New Mexico institute of mining and technology for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the general fund:

1. two hundred sixty-four thousand dollars (\$264,000) for the bureau of geology and mineral resources aquifer mapping project;
2. one hundred sixty-five thousand dollars (\$165,000) for the petroleum recovery research center;

3. fifty thousand dollars (\$50,000) for petroleum recovery research center matching funds for federal grants;
4. fifty thousand dollars (\$50,000) for proposal writing and matching funds for the institute for complex additive systems analysis;
5. fifty thousand dollars (\$50,000) for a  
pre-engineering program using retirees from the national laboratories;
6. two hundred fifty thousand dollars (\$250,000) for the small business innovation research outreach program;
7. two hundred fifty thousand dollars (\$250,000) to create a southeast New Mexico center for energy studies as part of the geophysical research center in Lea county for the review and analysis of energy policy;
8. sixty thousand dollars (\$60,000) for a statewide program that trains middle and high school students on the use of supercomputers, improves the skills and technical knowledge of students and improves teaching techniques in science, mathematics, engineering and technology;
9. forty thousand dollars (\$40,000) for the MESA program;
10. fifty thousand dollars (\$50,000) for the science and engineering fair and the science Olympiad;
11. seventy-two thousand dollars (\$72,000) for tuition scholarships for New Mexico high school students to attend a summer science program; and
12. fifty thousand dollars (\$50,000) for the college year program.

## **Chapter 21 Section 43 Laws 2007**

### Section 43. NORTHERN NEW MEXICO STATE SCHOOL

PROJECTS.--The following amounts are appropriated from the general fund to the board of regents of northern New Mexico state school for expenditure in fiscal year 2008 for the purposes specified and, unless otherwise indicated, any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund:

1. two hundred thousand dollars (\$200,000) for the health sciences and nursing program;

2. one hundred thousand dollars (\$100,000) to train teachers at Carlos Vigil middle school in the Espanola school district to improve their skills, technical knowledge and teaching techniques in science, mathematics and technology; and

3. one hundred twenty thousand dollars (\$120,000) for faculty salaries.

### **Chapter 21 Section 44 Laws 2007**

Section 44. NEW MEXICO SCHOOL FOR THE DEAF PROJECT.--Two hundred seventy-five thousand dollars (\$275,000) is appropriated from the general fund to the board of regents of New Mexico school for the deaf for expenditure in fiscal year 2008 for statewide outreach services. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

### **Chapter 21 Section 45 Laws 2007**

Section 45. NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED PROJECT.--Ten thousand dollars (\$10,000) is appropriated from the general fund to the board of regents of the New Mexico school for the blind and visually impaired for expenditure in fiscal year 2008 for a low vision clinic program. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

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Senate Finance Committee Substitute

for Senate Bill 611, as amended

Approved March 13, 2007

## **LAWS 2007, CHAPTER 22**

AN ACT RELATING TO HIGHER EDUCATION; ESTABLISHING THE DIVISIONS OF THE HIGHER EDUCATION DEPARTMENT.

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

### **Chapter 22 Section 1 Laws 2007**

Section 1. Section 9-25-4 NMSA 1978 (being Laws 2005, Chapter 289, Section 4) is amended to read:

"9-25-4. DEPARTMENT CREATED.--

A. The "higher education department" is created in the executive branch. The department is a cabinet department and includes the following divisions:

- (1) the administrative services division;
- (2) the planning and research division;
- (3) the financial aid division;
- (4) the public information and communications division;
- (5) the adult basic education division;
- (6) the information technology division;
- (7) the private and proprietary schools division; and
- (8) the public schools liaison division.

B. The secretary may organize the department and divisions of the department and may transfer or merge functions between divisions and bureaus in the interest of efficiency and economy."

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Senate Bill 248

Approved, March 13, 2007

## **LAWS 2007, CHAPTER 23**

AN ACT

RELATING TO INTERPRETERS; CHANGING THE AGENCY RESPONSIBLE FOR MAINTAINING THE LIST OF QUALIFIED INTERPRETERS FOR DEAF AND HARD-OF-HEARING PERSONS.

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

### **Chapter 23 Section 1 Laws 2007**

Section 1. Section 38-9-1 NMSA 1978 (being Laws 1979, Chapter 263, Section 1) is amended to read:

"38-9-1. SHORT TITLE.--Chapter 38, Article 9 NMSA 1978 may be cited as the "Deaf Interpreter Act"."

## **Chapter 23 Section 2 Laws 2007**

Section 2. Section 38-9-3 NMSA 1978 (being Laws 1979, Chapter 263, Section 3) is amended to read:

"38-9-3. INTERPRETER REQUIRED.--If a deaf person who is a principal party in interest has provided notice and proof of disability, if required, pursuant to Section 38-9-6 NMSA 1978, the appointing authority shall appoint an interpreter, after consultation with the deaf person, to interpret or to translate the proceedings to the person and to interpret or translate the person's testimony. Interpreters may be selected from current lists of interpreters provided by the commission for deaf and hard-of-hearing persons for:

- A. interpreters certified by the national registry of interpreters for the deaf; or
- B. other interpreters qualified through action of the commission for deaf and hard-of-hearing persons."

## **Chapter 23 Section 3 Laws 2007**

Section 3. Section 38-9-6 NMSA 1978 (being Laws 1979, Chapter 263, Section 6) is amended to read:

"38-9-6. NOTICE--PROOF OF DISABILITY.--Every deaf person whose appearance at a proceeding entitles the person to an interpreter shall notify the appointing authority of the person's disability at least two weeks prior to any appearance and shall request the services of an interpreter. An appointing authority may require a person requesting the appointment of an interpreter to furnish reasonable proof of the person's disability when the appointing authority has reason to believe that the person is not so disabled. Reasonable proof shall include but not be limited to a statement from a doctor, an audiologist, the vocational rehabilitation division of the public education department, the commission for deaf and hard-of-hearing persons or a school nurse that identifies the person as deaf or as having hearing so seriously impaired as to prohibit the person from understanding voice communications."

## **Chapter 23 Section 4 Laws 2007**

Section 4. Section 38-9-7 NMSA 1978 (being Laws 1979, Chapter 263, Section 7) is amended to read:

"38-9-7. COORDINATION OF INTERPRETER REQUESTS.--

A. Whenever an appointing authority receives a valid request for the services of an interpreter, the appointing authority shall request the commission for deaf and hard-of-hearing persons to furnish a list of interpreters.

B. The New Mexico association of the deaf and the New Mexico registry of interpreters for the deaf are authorized to assist the commission to prepare and continually update a listing of available interpreters. When requested by an appointing authority to provide assistance in providing an interpreter, the commission shall supply a list of available interpreters.

C. An interpreter who has been appointed shall be reimbursed by the appointing authority at a fixed rate reflecting a current approved fee schedule as established by the commission and the administrative office of the courts. Nothing in this section shall be construed to prevent any state department, board, institution, commission, agency or licensing authority or any political subdivision of the state from employing an interpreter on a full-time basis or under contract at a mutually agreed upon compensation rate."

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Senate Bill 283, as amended

Approved, March 13, 2007

## **LAWS 2007, CHAPTER 24**

AN ACT

RELATING TO WATER; AMENDING A SECTION OF CHAPTER 72 NMSA 1978 TO CLARIFY A WATER ALLOWANCE UPON CONSERVATION OF WATER.

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

### **Chapter 24 Section 1 Laws 2007**

Section 1. Section 72-5-18 NMSA 1978 (being Laws 1907, Chapter 49, Section 43, as amended) is amended to read:

"72-5-18. WATER ALLOWANCE.--

A. In the issuance of permits to appropriate water for irrigation or in the adjudication of the rights to the use of water for that purpose, the amount allowed shall be based upon beneficial use and in accordance with good agricultural practices and the amount allowed shall not exceed such amount. The state engineer shall permit the amount allowed to be diverted at a rate that is consistent with good agricultural practices and that will result in the most effective use of available water in order to prevent waste.

B. Improved irrigation methods or changes in agriculture practices resulting in conservation of water shall not diminish beneficial use or otherwise affect an owner's water rights or quantity of appurtenant acreage.

C. Any water rights owner who demonstrates that improved irrigation or changes in agricultural practices have resulted in the conservation of water shall be able to make an application to the state engineer for a change in the point of diversion or place or purpose of use of the quantity of conserved water, provided that:

(1) conservation of water shall not result in impairment or diminishment of other water rights; and

(2) priority and quality of right shall be assessed under the same standards as apply to transfers."

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Senate Judiciary Committee Substitute

for Senate Bill 461, as amended

Approved, March 13, 2007

## **LAWS 2007, CHAPTER 25**

### AN ACT

RELATING TO ELECTIONS; REQUIRING INDEPENDENT CANDIDATES TO BE UNAFFILIATED WITH A POLITICAL PARTY AND TO RESIDE IN THE DISTRICT FOR WHICH THEY ARE A CANDIDATE ON THE DAY OF THE GOVERNOR'S PROCLAMATION.

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

### **Chapter 25 Section 1 Laws 2007**

Section 1. A new section of the Election Code is enacted to read:

"INDEPENDENT CANDIDATES FOR GENERAL ELECTIONS--WHO MAY BECOME A CANDIDATE FOR NOMINATION.--

A. No person shall become a candidate for nomination as an independent candidate for any office, and the person's name shall not be printed on the general election ballot, unless the person's record of voter registration shows:

(1) no affiliation with a political party on the date of the governor's proclamation for the primary election; and

(2) residence in the district of the office for which the person is a candidate on the date of the governor's proclamation for the primary election.

B. A voter may challenge the candidacy of any person seeking nomination as an independent candidate for any office for the reason that the person does not meet the requirements of Subsection A of this section by filing a petition in the district court within ten days after the last day for filing a declaration of candidacy. The district court shall hear and render a decision on the matter within ten days after the filing of the petition. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith."

## **Chapter 25 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 506, as amended

Approved March 13, 2007

## **LAWS 2007, CHAPTER 26**

AN ACT

MAKING AN APPROPRIATION TO THE BOARD OF REGENTS OF THE UNIVERSITY OF NEW MEXICO FOR AN INFLAMMATORY BREAST CANCER RESEARCH PROGRAM.

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

## **Chapter 26 Section 1 Laws 2007**

Section 1. APPROPRIATION.--Three million two hundred fifteen thousand three hundred forty dollars (\$3,215,340) is appropriated from the general fund to the board of regents of the university of New Mexico for expenditure in fiscal years 2008 through 2010 to develop and conduct inflammatory breast cancer research in conjunction with the inflammatory breast cancer clinic and research program at M.D. Anderson cancer center of the university of Texas, the university of Washington school of medicine and

other medical research universities or institutions. Any unexpended or unencumbered balance remaining at the end of fiscal year 2010 shall revert to the general fund.

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Senate Bill 532, as amended

Approved March 13, 2007

## **LAWS 2007, CHAPTER 27**

AN ACT

RELATING TO HIGHER EDUCATION; ALLOWING BRANCH COMMUNITY COLLEGES TO ELECT BOARD MEMBERS FROM DISTRICTS.

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

### **Chapter 27 Section 1 Laws 2007**

Section 1. A new section of Chapter 21, Article 14 NMSA 1978 is enacted to read:

"BRANCH COMMUNITY COLLEGE BOARD--OPTIONAL FORM.--

A. The branch community college board of a branch community college may, by adoption of a resolution, establish a board composed of five members elected from single-member districts within the branch community college district for staggered terms. The single-member districts shall be compact and contiguous and composed of populations as equal as practicable. Members shall be required to reside in the districts from which elected. If a member no longer resides in the election district from which that member was elected, the member shall be deemed to have resigned and the vacancy created by the resignation shall be filled in the manner provided by law for the filling of vacancies on the board of a branch community college.

B. The board members shall draw lots to determine which board position will coincide with which election district during the meeting at which the board is resolved to change to a districted board.

C. The board shall redistrict once after each federal decennial census. The board may adopt a resolution to have the board's election districts coincide with the county commission districts if the county commission has five districts and the boundaries of the county and branch community college district are identical."

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Senate Bill 984, as amended

Approved March 13, 2007

## **LAWS 2007, CHAPTER 28**

**WITH LINE ITEM VETOES**

### **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 28 Section 1 Laws 2007**

**Section 1. SHORT TITLE.**--This act may be cited as the "General Appropriation Act of 2007".

### **Chapter 28 Section 2 Laws 2007**

**Section 2. DEFINITIONS.**--As used in the General Appropriation Act of 2007:

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 Lands Leasing Act;

E. "full-time equivalent" or "FTE" means one or more authorized positions that alone or together receives or receive compensation for not more than two thousand eighty-eight hours worked in fiscal year 2008. 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 Lands 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) unexpended balances in agency internal service fund accounts appropriated by the General Appropriation Act of 2007;

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 2007;

(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 28 Section 3 Laws 2007**

### **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 2007, or so much as may be necessary, are appropriated from the indicated source for expenditure in fiscal year 2008 for the objects expressed.

D. Unexpended balances in agency accounts remaining at the end of fiscal year 2007 shall revert to the general fund by October 1, 2007, unless otherwise indicated in the General Appropriation Act of 2007 or otherwise provided by law.

E. Unexpended balances in agency accounts remaining at the end of fiscal year 2008 shall revert to the general fund by October 1, 2008, unless otherwise indicated in the General Appropriation Act of 2007 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 2007, appropriations are made in that act for the expenditures of agencies and for other purposes as required by existing law for fiscal year 2008. If any other act of the first session of the forty-eighth 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 2007 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 shall regularly consult with the legislative finance committee staff to compare fiscal year 2008 revenue

collections with the revenue estimate. If the analyses indicate that revenues and transfers to the general fund are not expected to meet appropriations, the department of finance and administration shall present a plan to the legislative finance committee that outlines the methods by which the administration proposes to address the deficit.

I. Pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, agencies whose revenue from state board of finance loans, from revenue appropriated by other acts of the legislature, or from gifts, ~~non-general fund~~ 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. Pursuant to Section 6-4-2 NMSA 1978, federal funds received during fiscal year 2008 and not specifically appropriated shall be subject to future appropriation by the legislature, provided, however, that an agency may request a budget increase during fiscal year 2008 from the state budget division if the agency submits documentation to the state budget division and to the legislative finance committee showing that all of the following five requirements have been met:~~

~~(1) the requested budget increase is for federal funds the amount of which could not have been reasonably anticipated or known during the first session of the forty eighth legislature and, therefore, could not have been requested by the agency or appropriated by the legislature;~~

~~(2) the federal law authorizing the disbursement of the federal funds to the state requires the funds to be expended for specific programs or specific governmental functions without leaving a policy choice to the state of how the funds are to be expended;~~

~~(3) the state has no discretion as to the programs or governmental functions for which the federal funds will be expended;~~

~~(4) the executive branch has had no input into the selection of the programs or governmental functions for which the federal funds are required to be expended; and~~

~~(5) due to the emergency nature of the purpose of the federal funds or the likelihood that the federal funds will be unavailable in the future, the funds need to be budgeted and expended before the second session of the forty eighth legislature.~~

K. For fiscal year 2008, the number of permanent and term full-time equivalent positions specified for each agency shows the maximum number of employees intended by the legislature for that agency, unless another provision of the General Appropriation Act of 2007 or another act of the first session of the forty eighth legislature provides for additional employees.

L. 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 2007 may be expended for payment of agency-issued credit card invoices.

M. To prevent unnecessary spending, expenditures from the General Appropriation Act of 2007 for gasoline for state-owned vehicles at public gasoline service stations shall be made only for self-service gasoline provided that a state agency head may provide exceptions from the requirement to accommodate disabled persons or for other reasons the public interest may require.

N. For the purpose of administering the General Appropriation Act of 2007 and approving operating budgets, 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 28 Section 4 Laws 2007

### Section 4. FISCAL YEAR 2008 APPROPRIATIONS.--

Item	General State Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency/Trnsf	Federal Funds	Total/Target
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## A. LEGISLATIVE

### ~~LEGISLATIVE FINANCE COMMITTEE:~~

Appropriations:

(a)	Contractual services	100.0	_____	100.0
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~~The general fund appropriation to the legislative finance committee in the contractual services category includes one hundred thousand dollars (\$100,000) for technical expertise on tax policy and public finance, including bond financing, energy markets, real estate finance, and other specialized fields, to maintain quality of technical, economic and financial support on issues important to the legislature.~~

_____	Subtotal	_____	100.0
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### LEGISLATIVE COUNCIL SERVICE:

(1) Legislative building services:

Appropriations:

(a) Personal services and

	employee benefits	2,658.1		2,658.1
(b)	Contractual services	165.0		165.0
(c)	Other	986.7	986.7	

Authorized FTE: 52.00 Permanent; 4.00 Temporary

(2) Energy council dues:

Appropriations:	32.0		32.0	
Subtotal				3,841.8
<b>TOTAL LEGISLATIVE</b>	3,941.8			3,941.8

## B. JUDICIAL

### SUPREME COURT LAW LIBRARY:

The purpose of the supreme court law library program 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	671.6		671.6
(b)	Contractual services	364.3	1.4	365.7
(c)	Other	719.8	719.8	

Authorized FTE: 9.00 Permanent

Performance measures:

(a) Output:	Percent of updated titles		80%
(b) Output:	Number of research requests		6,600
Subtotal		1,757.1	

### NEW MEXICO COMPILATION COMMISSION:

The purpose of the New Mexico compilation commission program is to publish in print and electronic format, distribute and sell (1) laws enacted by the legislature; (2) opinions of the supreme court and court

of appeals; (3) rules approved by the supreme court; (4) attorney general opinions; and (5) other state and federal rules and opinions and ensure the accuracy and reliability of its publications.

Appropriations:

(a)	Personal services and			
	employee benefits	127.7	208.6	336.3
(b)	Contractual services		1,058.4	1,058.4
(c)	Other	171.9		171.9

Authorized FTE: 5.00 Permanent; 1.00 Term

Performance measures:

(a) Output: Amount of revenue collected, in thousands  
\$1,291.3

Subtotal 1,566.6

**JUDICIAL STANDARDS COMMISSION:**

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

Appropriations:

(a)	Personal services and			
	employee benefits	587.7		587.7
(b)	Contractual services	54.8		54.8
(c)	Other	136.8		136.8

Authorized FTE: 7.00 Permanent; 1.00 Temporary

Performance measures:

(a) Efficiency: Upon knowledge of cause for emergency interim suspension,  
time for commission to file petition for temporary  
suspension, in days 2

(b) Output: Time for release of annual report to the public, from the

end of the fiscal year, in months 2

- (c) Efficiency: For cases in which formal charges are filed, average time  
for formal hearings to be reached, in meeting cycles 3

Subtotal 779.3

### **COURT OF APPEALS:**

The purpose of the court of appeals program is to provide access to justice, to 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 4,745.4 4,745.4
- (b) Contractual services 129.8 129.8
- (c) Other 418.0 1.0 419.0

Authorized FTE: 59.50 Permanent

Performance measures:

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

Subtotal 5,294.2

### **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 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 2,566.5 2,566.5
- (b) Contractual services 48.4 48.4
- (c) Other 209.2 209.2

Authorized FTE: 32.00 Permanent

Performance measures:

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

Subtotal 2,824.1

### ADMINISTRATIVE OFFICE OF THE COURTS:

(1) Administrative support:

The purpose of 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	2,699.5	31.7	2,731.2		
(b)	Contractual services	672.8	114.0	455.0	1,241.8	
(c)	Other	4,489.6	525.0	6.0	53.2	5,073.8
(d)	Other financing uses	950.0				950.0

Authorized FTE: 36.80 Permanent; 2.80 Term

~~The general fund appropriation to the administrative support program of the administrative office of the courts in the personal services and employee benefits category includes forty-eight thousand dollars (\$48,000) for an administrative assistant.~~

Any unexpended balances in the judicial performance evaluation commission remaining at the end of fiscal year 2008 from appropriations made from the general fund shall not revert.

Performance measures:

(a) Outcome: Percent of jury summons successfully executed  
92%

(b) Output: Average cost per juror \$42

(2) Statewide judiciary automation:

The purpose of the statewide judiciary automation program is to provide development, enhancement, maintenance and support for core court automation and usage skills for appellate, district, magistrate and municipal courts and ancillary judicial agencies.

Appropriations:

(a) Personal services and

	employee benefits	2,425.1	1,703.6	4,128.7
(b)	Contractual services	9.0	776.4	785.4
(c)	Other	464.9 786.9	2,006.5	3,258.3

Authorized FTE: 41.50 Permanent; 9.00 Term

~~The general fund appropriation to the statewide judiciary automation program of the administrative office of the courts in the personal services and employee benefits category includes ninety-two thousand eight hundred dollars (\$92,800) for two permanent full-time equivalent telecommunication engineers.~~

Performance measures:

- (a) Quality: Percent of accurate driving-while-intoxicated court reports 98%
- (b) Quality: Average time to respond to automation calls for assistance,  
in minutes 25

(3) Magistrate court:

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

Appropriations:

(a)	Personal services and				
	employee benefits	15,548.5	300.0	1,885.8	17,734.3
(b)	Contractual services	224.8	166.7	251.1	642.6
(c)	Other	5,736.3 450.0	548.1	6,734.4	

Authorized FTE: 279.50 Permanent; 56.50 Term

~~The general fund appropriation to the magistrate court program of the administrative office of the courts in the personal services and employee benefits category includes forty thousand dollars (\$40,000) for a magistrate clerk in Santa Fe county.~~

Performance measures:

- (a) Outcome: Bench warrant revenue collected annually, in millions \$2.4
- (b) Explanatory: Percent of cases disposed as a percent of cases filed 95%
- (c) Efficiency: Percent of magistrate court financial reports submitted to

fiscal services division and reconciled on a monthly basis 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 tempore and to adjudicate water rights disputes so that the constitutional rights and safety of citizens (especially children and families) are protected.

Appropriations:

(a)	Personal services and			
	employee benefits	59.9		59.9
(b)	Contractual services	5,876.1	350.0	6,226.1
(c)	Other	12.0	12.0	
(d)	Other financing uses	1,407.6		1,407.6

Authorized FTE: 1.00 Permanent

Performance measures:

- (a) Output: Number of required events attended by attorneys in abuse and neglect cases 8,000
- (b) Output: Number of monthly supervised child visitations conducted 500
- (c) Output: Number of cases to which court-appointed special advocate volunteers are assigned 1,600

Subtotal 50,986.1

**SUPREME COURT BUILDING COMMISSION:**

The purpose of the supreme court building commission program 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	599.6		599.6
(b)	Contractual services	6.7		6.7

(c) Other 127.3 127.3

Authorized FTE: 15.25 Permanent

Performance measures:

(a) Quality: Accuracy of fixed-assets inventory records 100%

Subtotal 733.6

## 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 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	5,263.1	222.5	255.9	5,741.5
(b)	Contractual services	689.0	33.1	102.0	824.1
(c)	Other	171.4	175.6	60.2	407.2

Authorized FTE: 84.00 Permanent; 7.50 Term

Performance measures:

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

(b) Quality: Recidivism of adult drug-court graduates 9.3%

(c) Quality: Recidivism of juvenile drug-court graduates 20%

(d) Output: Number of adult drug-court graduates 16

(e) Output: Number of juvenile drug-court graduates 17

(f) Output: Number of days to process juror payment vouchers 14

(g) Explanatory: Graduation rate, juvenile drug court 50%

(h) Explanatory: Graduation rate, adult drug court 45%

### (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 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	18,660.9	695.2	1,313.6	20,669.7
(b)	Contractual services	469.0	27.2		496.2
(c)	Other	875.7	184.6	99.4	1,159.7

Authorized FTE: 315.50 Permanent; 28.50 Term

Performance measures:

(a) Explanatory:	Cases disposed as a percent of cases filed	95%
(b) Quality:	Recidivism of adult drug-court graduates	10%
(c) Quality:	Recidivism of juvenile drug-court graduates	10%
(d) Output:	Number of adult drug-court graduates	185
(e) Output:	Number of juvenile drug-court graduates	17
(f) Output:	Number of days to process juror payment vouchers	14
(g) Explanatory:	Graduation rate, adult drug court	55%
(h) Explanatory:	Graduation rate, juvenile drug court	60%

**(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 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	5,100.8	372.8	5,473.6
(b)	Contractual services	799.0	97.6	122.1
(c)	Other	343.9	42.2	94.0
				480.1

Authorized FTE: 79.60 Permanent; 4.30 Term; .50 Temporary

Performance measures:

- (a) Explanatory: Cases disposed as a percent of cases filed 90%
- (b) Quality: Recidivism of adult drug-court graduates 15%
- (c) Output: Number of adult drug-court graduates 25
- (d) Output: Number of juvenile drug-court graduates 20
- (e) Explanatory: Graduation rate, adult drug court 65%
- (f) Explanatory: Graduation rate, juvenile drug court 70%

**(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 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 1,466.7 1,466.7
- (b) Contractual services 211.4 7.0 14.9 233.3
- (c) Other 144.9 20.0 164.9

Authorized FTE: 23.50 Permanent

Performance measures:

- (a) Explanatory: Cases disposed as a percent of cases filed 90%
- (b) Output: Number of days to process juror payment vouchers 12
- (c) Explanatory: Graduation rate, juvenile drug court 60%
- (d) Quality: Recidivism of juvenile drug-court graduates 20%
- (e) Output: Number of juvenile drug-court graduates 9

**(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 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	5,008.8	47.7		5,056.5
(b)	Contractual services	357.1	70.0	244.7	671.8
(c)	Other	357.9	45.0	2.6	405.5

Authorized FTE: 79.00 Permanent; 1.00 Term

Performance measures:

- (a) Explanatory: Cases disposed as a percent of cases filed 90%
- (b) Output: Number of days to process juror payment vouchers 10
- (c) Explanatory: Graduation rate, family drug court 80%
- (d) Quality: Recidivism of family drug-court graduates 15%
- (e) Output: Number of family drug-court graduates 6

**(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 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	1,871.4			1,871.4
(b)	Contractual services	593.4	35.9	84.2	713.5
(c)	Other	192.0		192.0	

Authorized FTE: 29.50 Permanent; .50 Term

Performance measures:

- (a) Explanatory: Cases disposed as a percent of cases filed 90%
- (b) Quality: Recidivism of juvenile drug-court graduates 13%

- (c) Output: Number of juvenile drug-court graduates 4
- (d) Output: Number of days to process juror payment vouchers 12
- (e) Explanatory: Graduation rate, juvenile drug court 70%

**(7) Seventh judicial district:**

The purpose of the seventh judicial district court program, statutorily created in Torrance, Socorro, Sierra and Catron 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 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 1,677.0 258.9 1,935.9
- (b) Contractual services 211.5 28.0 49.8 289.3
- (c) Other 145.3 59.6 204.9

Authorized FTE: 28.00 Permanent; 4.00 Term

Performance measures:

- (a) Explanatory: Cases disposed as a percent of cases filed 90%
- (b) Output: Number of days to process juror payment vouchers 10

**(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 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 1,590.5 1,590.5
- (b) Contractual services 740.9 45.0 75.6 861.5
- (c) Other 127.7 28.0 155.7

Authorized FTE: 25.30 Permanent

Performance measures:

- (a) Explanatory: Cases disposed as a percent of cases filed 90%
- (b) Quality: Recidivism of adult drug-court graduates 10%
- (c) Quality: Recidivism of juvenile drug-court graduates 10%
- (d) Output: Number of adult drug-court graduates 18
- (e) Output: Number of juvenile drug-court graduates 8
- (f) Output: Number of days to process juror payment vouchers 14
- (g) Explanatory: Graduation rate, juvenile drug court 70%
- (h) Explanatory: Graduation rate, adult drug court 75%

**(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 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 2,874.5 320.2 3,194.7
- (b) Contractual services 108.0 16.1 92.6 216.7
- (c) Other 225.4 56.5 52.8 334.7

Authorized FTE: 43.80 Permanent; 4.00 Term

Performance measures:

- (a) Explanatory: Cases disposed as a percent of cases filed 90%
- (b) Output: Number of days to process juror payment vouchers 14

**(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 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	627.3		627.3
(b)	Contractual services	16.0	13.9	29.9
(c)	Other	57.0	3.2	60.2
(d)	Other financing uses	15.0		15.0

Authorized FTE: 10.10 Permanent

Performance measures:

- (a) Explanatory: Cases disposed as a percent of cases filed 90%
- (b) Output: Number of days to process juror payment vouchers 14

**(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 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	4,522.3	349.4	4,871.7
(b)	Contractual services	247.0	75.9	126.7
(c)	Other	470.4	46.2	1.9
				518.5

Authorized FTE: 74.00 Permanent; 8.00 Term

Performance measures:

- (a) Explanatory: Cases disposed as a percent of cases filed 90%
- (b) Quality: Recidivism of adult drug-court graduates 10%
- (c) Quality: Recidivism of juvenile drug-court graduates 15%
- (d) Output: Number of adult drug-court graduates 30
- (e) Output: Number of juvenile drug-court graduates 16
- (f) Output: Number of days to process juror payment vouchers 10
- (g) Explanatory: Graduation rate, juvenile drug court 70%

(h) Explanatory: Graduation rate, adult drug court 70%

**(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 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	2,297.2			2,297.2
(b)	Contractual services	492.8	30.0	86.1	608.9
(c)	Other	160.6	20.0	180.6	

Authorized FTE: 37.00 Permanent

Performance measures:

(a) Explanatory:	Cases disposed as a percent of cases filed	90%
(b) Quality:	Recidivism of juvenile drug-court participants	15%
(c) Output:	Number of juvenile drug-court graduates	14
(d) Output:	Number of days to process juror payment vouchers	14
(e) Explanatory:	Graduation rate, juvenile drug court	70%

**(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 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	4,650.7			4,650.7
(b)	Contractual services	646.4	93.0	204.1	943.5
(c)	Other	441.2	4.0	75.3	520.5

Authorized FTE: 68.50 Permanent; 4.00 Term

Performance measures:

(a) Explanatory:	Cases disposed as a percent of cases filed	90%
(b) Quality:	Recidivism of juvenile drug-court graduates	15%
(c) Output:	Number of juvenile drug-court graduates	44
(d) Output:	Number of days to process juror payment vouchers	10
(e) Explanatory:	Graduation rate, juvenile drug court	70%
Subtotal		71,603.9

**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 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	16,319.3	1,774.0	26.6	497.0
					18,616.9
(b)	Contractual services	2,644.1	491.6	245.8	3,381.5
(c)	Other	2,771.9	488.2	23.2	3,283.3
(d)	Other financing uses	53.4			53.4

Authorized FTE: 288.00 Permanent; 53.50 Term

Performance measures:

(a) Explanatory:	Cases disposed as a percent of cases filed	95%
(b) Efficiency:	Cost per client per day for adult drug-court participants	\$12.3
(c) Quality:	Recidivism of DWI/drug-court graduates	6%
(d) Output:	Number of DWI/drug-court graduates	240
(e) Explanatory:	Graduation rate of drug-court participants	70%
(f) Outcome:	Fees and fines collected as a percent of fees and fines assessed	90%

Subtotal 25,335.1

**DISTRICT ATTORNEYS:**

**(1) First judicial district:**

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

Appropriations:

(a)	Personal services and				
	employee benefits	3,943.5	163.4	208.1	4,315.0
(b)	Contractual services	59.9			59.9
(c)	Other	475.7	475.7		

Authorized FTE: 68.00 Permanent; 5.00 Term

Performance measures:

- (a) Outcome: Percent of cases dismissed under the six-month rule <1%
- (b) Efficiency: Average time from filing of petition to final disposition,  
in months 2
- (c) Efficiency: Average attorney caseload 150
- (d) Output: Number of cases prosecuted 2,800
- (e) Output: Number of cases referred for screening 4,400

**(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	14,415.6	46.0	833.1	146.5	15,441.2
(b)	Contractual services	221.8	9.5			231.3

(c) Other 775.7 76.9 852.6

Authorized FTE: 268.00 Permanent; 13.00 Term

Performance measures:

(a) Outcome: Percent of cases dismissed under the six-month rule <3%

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

(c) Efficiency: Average attorney caseload 550

(d) Output: Number of cases prosecuted 25,000

(e) Output: Number of cases referred for screening 43,000

(f) Efficiency: Average number of cases per attorney 250

**(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 3,591.2 47.6 438.0 4,076.8

(b) Contractual services 36.6 36.6

(c) Other 263.0 263.0

Authorized FTE: 60.00 Permanent; 8.00 Term

The general fund appropriation to the third judicial district attorney in the personal services and employee benefits category includes one hundred sixty-seven thousand dollars (\$167,000) for three permanent full-time-equivalent positions for the domestic violence prosecution team.

Performance measures:

(a) Outcome: Percent of cases dismissed under the six-month rule <.3%

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

(c) Output: Number of cases prosecuted 4,100

(d) Output: Number of cases referred for screening 5,400

(e) Efficiency: Average attorney caseload 160

**(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	2,658.4	69.7	2,728.1
(b)	Contractual services	72.0		72.0
(c)	Other	210.2	210.2	

Authorized FTE: 37.00 Permanent; 3.00 Term

Performance measures:

(a) Outcome: Percent of cases dismissed under the six-month rule <1%

(b) Efficiency: Average attorney caseload 250

(c) Output: Number of cases prosecuted 1,750

(d) Output: Number of cases referred for screening 5,700

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

**(5) Fifth judicial district:**

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

Appropriations:

(a)	Personal services and			
	employee benefits	3,467.2	33.3 97.2	3,597.7
(b)	Contractual services	119.6		119.6

(c) Other 318.1 318.1

Authorized FTE: 56.00 Permanent; 3.00 Term

Performance measures:

(a) Outcome: Percent of cases dismissed under the six-month rule 0%

(b) Efficiency: Average time from filing of petition to final disposition,  
in months 4

(c) Efficiency: Average attorney caseload 200

(d) Output: Number of cases prosecuted 3,000

(e) Output: Number of cases referred for screening 3,800

**(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 2,016.5 214.6 100.7 2,331.8

(b) Contractual services 12.1 12.1

(c) Other 197.8 197.8

Authorized FTE: 32.00 Permanent; 6.00 Term

~~The general fund appropriation to the sixth judicial district attorney in the personal services and employee benefits category includes fifty thousand dollars (\$50,000) for one permanent full-time equivalent program specialist.~~

Performance measures:

(a) Outcome: Percent of cases dismissed under the six-month rule <1%

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

(c) Efficiency: Average attorney caseload 150

(d) Output: Number of cases prosecuted 1,900

(e) Output: Number of cases referred for screening 2,200

**(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	2,035.0	29.2	2,064.2
(b)	Contractual services	50.2		50.2
(c)	Other	168.8	168.8	

Authorized FTE: 36.00 Permanent; 1.00 Term

Performance measures:

(a) Outcome:	Percent of cases dismissed under the six-month rule	<2%
(b) Efficiency:	Average attorney caseload	140
(c) Output:	Number of cases prosecuted	2,280
(d) Output:	Number of cases referred for screening	2,450
(e) Efficiency:	Average time from filing of petition to final disposition, in months	5.5

**(8) Eighth judicial district:**

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

Appropriations:

(a)	Personal services and			
	employee benefits	2,101.8		2,101.8
(b)	Contractual services	65.4		65.4
(c)	Other	272.7	272.7	

Authorized FTE: 32.00 Permanent; 1.00 Term; 3.00 Temporary

Performance measures:

- (a) Outcome: Percent of cases dismissed under the six-month rule <3%
- (b) Efficiency: Average time from filing of petition to final disposition,  
in months 6
- (c) Output: Number of cases prosecuted 1,600
- (d) Output: Number of cases referred for screening 3,500
- (e) Efficiency: Average attorney caseload 195

**(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 2,420.7 2,420.7
- (b) Contractual services 8.6 8.6
- (c) Other 144.1 144.1

Authorized FTE: 38.00 Permanent; 1.00 Term

Performance measures:

- (a) Outcome: Percent of cases dismissed under the six-month rule <1%
- (b) Efficiency: Average time from filing of petition to final disposition,  
in months 4
- (c) Efficiency: Average attorney caseload 180
- (d) Output: Number of cases prosecuted 2,000
- (e) Output: Number of cases referred for screening 2,000

**(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	807.6		807.6
(b)	Contractual services	10.3		10.3
(c)	Other	111.7	111.7	

Authorized FTE: 12.00 Permanent

Performance measures:

- (a) Outcome: Percent of cases dismissed under the six-month rule <1%
- (b) Efficiency: Average time from filing of petition to final disposition,  
in months 3
- (c) Efficiency: Average attorney caseload 300
- (d) Output: Number of cases prosecuted 1,200
- (e) Output: Number of cases referred for screening 300

**(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	2,905.6	90.0	59.6	3,055.2
(b)	Contractual services	16.2			16.2
(c)	Other	198.1	198.1		

Authorized FTE: 53.00 Permanent; 3.30 Term

Performance measures:

- (a) Outcome: Percent of cases dismissed under the six-month rule <.5%
- (b) Efficiency: Average time from filing of petition to final disposition,  
in months 6
- (c) Efficiency: Average attorney caseload 209
- (d) Output: Number of cases prosecuted 4,100
- (e) Output: Number of cases referred for screening 4,500

**(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 1,756.3 26.5 1,782.8
- (b) Contractual services 9.3 9.3
- (c) Other 202.9 202.9

Authorized FTE: 33.00 Permanent; 1.00 Term

Performance measures:

- (a) Outcome: Percent of cases dismissed under the six-month rule <1.5%
- (b) Efficiency: Average time from filing of petition to final disposition,  
in months 7
- (c) Efficiency: Average attorney caseload 450
- (d) Output: Number of cases prosecuted 2,563
- (e) Output: Number of cases referred for screening 3,726

**(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	1,969.4	354.2	215.6	2,539.2
(b)	Contractual services	13.1		89.8	102.9
(c)	Other	336.6		2.9	339.5

Authorized FTE: 37.00 Permanent; 8.50 Term

Performance measures:

- (a) Outcome: Percent of cases dismissed under the six-month rule <.5%
- (b) Efficiency: Average time from filing of petition to final disposition,  
in months 8
- (c) Efficiency: Average attorney caseload 160
- (d) Output: Number of cases prosecuted 4,300
- (e) Output: Number of cases referred for screening 6,000

**(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	3,585.1	96.8	147.7	3,829.6
(b)	Contractual services	73.6			73.6
(c)	Other	378.2		378.2	

Authorized FTE: 70.00 Permanent; 4.00 Term

Performance measures:

- (a) Outcome: Percent of cases dismissed under the six-month rule <.2%
- (b) Efficiency: Average time from filing of petition to final disposition,  
in months 8

(c) Efficiency:	Average attorney caseload	190		
(d) Output:	Number of cases prosecuted	7,677		
(e) Output:	Number of cases referred for screening	8,705		
Subtotal			56,093.1	

**ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS:**

(1) Administrative support:

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

Appropriations:

(a)	Personal services and			
	employee benefits	840.3	70.3	910.6
(b)	Contractual services	37.6		37.6
(c)	Other	1,179.2	100.0	1,279.2

Authorized FTE: 12.00 Permanent

Performance measures:

(a) Output:	Number of district attorney employees receiving training	850
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Subtotal			2,227.4
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<b>TOTAL JUDICIAL</b>	193,352.8	9,109.2	14,166.9	2,571.6	219,200.5
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**C. GENERAL CONTROL**

**ATTORNEY GENERAL:**

(1) Legal services:

The purpose of the legal services program is to deliver quality legal services, opinions, counsel and representation to state government entities and to enforce state law on behalf of the public so that New Mexicans have an open, honest, efficient government and enjoy the protection of state law.

Appropriations:

(a)	Personal services and			
	employee benefits	12,080.7		12,080.7
(b)	Contractual services	563.3		563.3
(c)	Other	1,932.7	104.0	2,036.7

Authorized FTE: 156.00 Permanent; 1.00 Term

The federal funds appropriation to the legal services program of the attorney general in the other category includes one hundred four thousand dollars (\$104,000) from the medicaid fraud division.

All revenue generated from antitrust cases and consumer protection settlements through the attorney general on behalf of the state, political subdivisions or private citizens shall revert to the general fund.

Performance measures:

- (a) Outcome: Percent of initial responses for attorney general opinions  
made within three days of request 95%

(2) Medicaid fraud:

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

Appropriations:

(a)	Personal services and			
	employee benefits	448.3	1,062.7	1,511.0
(b)	Contractual services		28.9	28.9
(c)	Other	281.8	281.8	
(d)	Other financing uses		104.0	104.0

Authorized FTE: 21.00 Permanent

Subtotal 16,606.4

## 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	2,224.1	228.3	40.2	2,492.6
(b)	Contractual services	219.3			219.3
(c)	Other	166.2	359.8	526.0	

Authorized FTE: 32.00 Permanent; 1.00 Term

Performance measures:

(a) Outcome:	Percent of audits completed by regulatory due date	74%
(b) Output:	Total audit fees generated	\$400,000
	Subtotal	3,237.9

**TAXATION AND REVENUE DEPARTMENT:**

(1) Tax administration:

The purpose of the tax administration program is to provide registration and licensure requirements for tax programs and to ensure the administration, collection and compliance of state taxes and fees that provide funding for support services for the general public through appropriations.

Appropriations:

(a)	Personal services and				
	employee benefits	22,040.9	449.1	1,243.8	23,733.8
(b)	Contractual services	218.5	18.0		236.5
(c)	Other	5,523.1	459.3	178.8	6,161.2

Authorized FTE: 493.00 Permanent; 26.00 Term; 31.70 Temporary

The general fund appropriations to the tax administration program of the taxation and revenue department include one million five hundred sixty-seven thousand six hundred dollars (\$1,567,600) for revenue enhancement initiatives.

Performance measures:

(a) Outcome:	Collections as a percent of collectible outstanding	
	balances from June 30, 2007	20%
(b) Outcome:	Collections as a percent of collectible audit assessments	
	generated in the current fiscal year	40%

(c) Output: Percent of electronically filed returns (personal income tax, combined reporting system) 45%

(2) Motor vehicle:

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

Appropriations:

(a)	Personal services and			
	employee benefits	7,554.9	7,298.1	14,853.0
(b)	Contractual services	1,800.3	1,782.5	3,582.8
(c)	Other	4,841.4	1,489.4	6,330.8

Authorized FTE: 354.00 Permanent; 8.00 Term; 4.00 Temporary

Performance measures:

(a) Outcome:	Percent of registered vehicles with liability insurance	90%
(b) Efficiency:	Average wait time in Q-Matic-equipped offices, in minutes	14
(c) Efficiency:	Average call center wait time to reach an agent, in minutes	3.75

(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	542.3	1,884.9	2,427.2
(b)	Contractual services	37.9	88.4	126.3
(c)	Other	163.4	432.8	596.2

Authorized FTE: 44.00 Permanent; 6.00 Term

Performance measures:

(a) Outcome: Percent of delinquent accounts that are resolved 88%

(b) Output: Number of appraisals and valuations for companies

conducting business within the state subject to state

assessment 510

(4) Compliance enforcement:

The purpose of the compliance enforcement program is to support the overall mission of the New Mexico taxation and revenue department by enforcing the criminal statutes relative to the New Mexico Tax Administration Act and other related financial crimes, as they impact New Mexico state taxes, in order to encourage and achieve voluntary compliance with New Mexico tax laws.

Appropriations:

(a)	Personal services and			
	employee benefits	2,034.3		2,034.3
(b)	Contractual services	3.1		3.1
(c)	Other	369.2	369.2	
(d)	Other financing uses	96.3		96.3

Authorized FTE: 34.00 Permanent

The general fund appropriation to the compliance enforcement program of the taxation and revenue department in the personal services and employee benefits category includes thirty-eight thousand four hundred dollars (\$38,400) for a full-time-equivalent position for revenue enhancement initiatives.

Performance measures:

(a) Efficiency: Successful tax fraud prosecutions as a percent of total

cases prosecuted 90%

(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 in order to give agency personnel the resources needed to meet departmental objectives. For the general public, the program conducts hearings for resolving taxpayer protests and provides stakeholders with reliable information regarding the state's tax programs.

Appropriations:

(a)	Personal services and				
	employee benefits	13,003.1	305.0	378.0	13,686.1

(b)	Contractual services	2,558.9	67.7	2,626.6
(c)	Other	4,137.3	88.6	4,225.9

Authorized FTE: 207.00 Permanent

The general fund appropriation to program support of the taxation and revenue department in the other category includes two hundred ninety-four thousand dollars (\$294,000) to purchase thirty servers.

Performance measures:

(a) Outcome: Percent of driving-while-intoxicated drivers' license revocations rescinded due to failure to hold hearings in ninety days 1%

(b) Outcome: Number of tax protest cases resolved 735

Subtotal 81,089.3

## STATE INVESTMENT COUNCIL:

(1) State investment:

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

Appropriations:

(a)	Personal services and employee benefits	3,325.7	3,325.7
(b)	Contractual services	25,520.7	25,520.7
(c)	Other	830.3	830.3

Authorized FTE: 32.00 Permanent

The other state funds appropriation to the state investment program of the state investment council in the contractual services category includes twenty-four million eight hundred ninety-two thousand dollars (\$24,892,000) to be used only for money manager fees.

Performance measures:

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

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

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

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

Subtotal 29,676.7

## DEPARTMENT OF FINANCE AND ADMINISTRATION:

(1) Policy development, fiscal analysis, budget oversight and education accountability:

The purpose of the policy development, fiscal analysis, budget oversight and education accountability program is to provide professional, coordinated policy development and analysis and oversight to the governor, the legislature and state agencies so they can advance the state's policies and initiatives using appropriate and accurate data to make informed decisions for the prudent use of the public's tax dollars.

Appropriations:

(a)	Personal services and			
	employee benefits	2,931.9		2,931.9
(b)	Contractual services	179.2	290.0	469.2
(c)	Other	249.4	249.4	

Authorized FTE: 34.80 Permanent

Performance measures:

(a) Outcome: Average number of working days for the state budget division to complete approval of a budget adjustment request, unless referred to the secretary for consideration 5

(b) Outcome: Error rate for eighteen-month general fund revenue forecast 3%

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

The purpose of the community development, local government assistance and fiscal oversight program is to provide federal and state oversight assistance to counties, municipalities and special districts with planning, implementation and development of fiscal management so that entities can maintain strong, lasting communities.

Appropriations:

(a)	Personal services and				
	employee benefits	2,265.7	963.2	408.5	3,637.4
(b)	Contractual services	2,570.3	1,953.1	24.2	4,547.6
(c)	Other	120.5	31,461.2	13,854.3	45,436.0
(d)	Other financing uses		300.0		300.0

Authorized FTE: 34.00 Permanent; 21.00 Term

Performance measures:

- (a) Output: Percent of community development block grant closeout letters issued within forty-five days of review of final report 95%

(3) Fiscal management and oversight:

The purpose of the fiscal management and oversight program is to provide for and promote financial accountability for public funds throughout state government and to provide state government agencies and the citizens of New Mexico with timely, factual and comprehensive information on the financial status and expenditures of the state.

Appropriations:

(a)	Personal services and				
	employee benefits	4,445.1			4,445.1
(b)	Contractual services	420.6		439.8	860.4
(c)	Other	675.4		675.4	

Authorized FTE: 67.00 Permanent

The internal services funds/interagency transfers appropriations to the fiscal management and oversight program of the department of finance and administration include four hundred thirty-nine thousand eight hundred dollars (\$439,800) to be transferred from the information systems division of the general services department from the human resources management system fee it collects.

Performance measures:

- (a) Efficiency: Average number of business days needed to process payments using the statewide human resources, accounting, and

management reporting system 2

(4) Program support:

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

Appropriations:

(a)	Personal services and		
	employee benefits	1,463.8	1,463.8
(b)	Contractual services	73.9	73.9
(c)	Other	51.5	51.5

Authorized FTE: 20.00 Permanent

(5) Dues and membership fees/special appropriations:

Appropriations:

(a)	Council of state governments	88.9	88.9
(b)	Western interstate commission		
	for higher education	116.0	116.0
(c)	Education commission of the		
	states	60.5	60.5
(d)	Rocky mountain corporation		
	for public broadcasting	13.1	13.1
(e)	National association of		
	state budget officers	14.7	14.7
(f)	National conference of state		
	legislatures	116.5	116.5
(g)	Western governors'		
	association	36.0	36.0

(h)	Governmental accounting standards board	15.7		15.7
(i)	National center for state courts	81.4	81.4	
(j)	National conference of insurance legislators	10.0		10.0
(k)	National council of legislators from gaming states	3.0		3.0
(l)	National governors' association	83.8	83.8	
(m)	Citizens' review board	410.0	190.0	600.0
(n)	Emergency water fund	150.0		150.0
(o)	Fiscal agent contract	1,050.0		1,050.0
(p)	New Mexico water resources association	6.6	6.6	
(q)	State planning districts	873.3		873.3
(r)	State treasurer's audit	24.0		24.0
(s)	Mentoring program	2,392.4		2,392.4
(t)	Agri-business task force of mid-region council of governments	150.0	150.0	
(u)	Santa Fe teen court	50.0		50.0
(v)	Law enforcement enhancement fund	7,809.4	7,809.4	
(w)	Leasehold community			

	assistance	123.8		123.8
(x)	Acequia and community ditch			
	program	330.0		330.0
(y)	Food banks	399.6		399.6
(z)	Weatherization	800.0		800.0
(aa)	Fire suppression at the			
	Santa Fe airport	250.0		250.0
(bb)	County detention of			
	prisoners	5,000.0		5,000.0
(cc)	Hispanic affairs department	150.0		150.0
(dd)	Soil conservation districts	500.0		500.0

The general fund appropriation to the department of finance and administration for county detention of prisoners is contingent on enactment of House Bill 316, Senate Bill 410 or similar legislation of the first session of the forty-eighth legislature.

Upon 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 ~~and review of the legislative finance committee~~, 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 one million five hundred thousand dollars (\$1,500,000) in fiscal year 2008. 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, ~~provided that, after the total amounts deposited in fiscal year 2008 exceed two hundred fifty thousand dollars (\$250,000), any additional repayments shall be transferred to the general fund.~~

The general fund appropriation to the department of finance and administration of three hundred thirty thousand dollars (\$330,000) for the acequia and community ditch program includes three hundred thousand dollars (\$300,000) for acequia governance education and training.

The general fund appropriation to the department of finance and administration of one hundred fifty thousand dollars (\$150,000) for the Hispanic affairs department is contingent on enactment of Senate Bill 551 or similar legislation of the first session of the forty-eighth legislature.

The general fund appropriation to the department of finance and administration of five hundred thousand dollars (\$500,000) for soil conservation districts is to match federal funds for water conservation and resource restoration technical assistance pursuant to an agreement with the United States department of agriculture resources conservation services.

Subtotal				86,440.3
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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 are protected against catastrophic financial losses due to medical problems, disability or death.

#### Appropriations:

(a)	Contractual services	268,272.2	268,272.2
(b)	Other financing uses	578.7	578.7

#### Performance measures:

- (a) Outcome: Percent of participants receiving recommended preventive care 70%
- (b) Efficiency: Percent variance of medical premium change between the public school insurance authority and industry average  $\leq 3\%$

### (2) Risk:

The purpose of the risk program is to provide economical and comprehensive property, liability and workers' compensation programs to educational entities so they are protected against injury and loss.

#### Appropriations:

(a)	Contractual services	50,868.9	50,868.9
(b)	Other financing uses	578.7	578.7

#### Performance measures:

- (a) Outcome: Percent variance of public property premium change between public school insurance authority and industry average  $\leq 15\%$
- (b) Outcome: Percent variance of workers' compensation premium change between public school insurance authority and industry average  $\leq 7\%$
- (c) Outcome: Percent variance of public liability premium change between public school insurance authority and industry average  $\leq 15\%$

(3) Program support:

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

Appropriations:

(a)	Personal services and employee benefits	776.6	776.6
(b)	Contractual services	177.8	177.8
(c)	Other	203.0	203.0

Authorized FTE: 11.00 Permanent

Subtotal 321,455.9

**RETIREE HEALTH CARE AUTHORITY:**

(1) Health care benefits administration:

The purpose of the health care benefits administration program is to provide core group and optional health care benefits and life insurance to current and future eligible retirees and their dependents so they may access covered and available core group and optional health care benefits and life insurance benefits when they need them.

Appropriations:

(a)	Contractual services	181,710.1	181,710.1
(b)	Other financing uses	2,778.0	2,778.0

Performance measures:

- (a) Output: Minimum number of years of long-term actuarial solvency 15
- (b) Outcome: Total revenue generated, in millions \$177
- (c) Efficiency: Average monthly per-participant claim cost, non-medicare eligible \$525
- (d) Output: Average monthly per-participant claim cost, medicare eligible \$299

(2) Senior prescription drug:

The purpose of the senior prescription drug program is to administer the senior prescription drug program aimed at reducing prescription drug expenditures for those covered participants.

Appropriations:

(a)	Other	8.9	8.9
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(3) Program support:

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

Appropriations:

(a)	Personal services and employee benefits		1,419.1	1,419.1
(b)	Contractual services		501.5	501.5
(c)	Other	857.4	857.4	

Authorized FTE: 24.00 Permanent

Any unexpended balance in program support of the retiree health care authority remaining at the end of fiscal year 2008 shall revert to the health care benefits administration program.

Subtotal			187,275.0
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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		19,600.0	19,600.0
(b)	Other	327,257.0	327,257.0	
(c)	Other financing uses		881.9	881.9

(2) Risk management:

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

Appropriations:

(a)	Personal services and employee benefits		3,655.7	3,655.7
(b)	Other	646.4	646.4	
(c)	Other financing uses		409.6	409.6

Authorized FTE: 58.00 Permanent

(3) Risk management funds:

Appropriations:

(a)	Public liability		44,653.8	44,653.8
(b)	Surety bond		150.9	150.9
(c)	Public property reserve		16,325.8	16,325.8
(d)	Local public bodies unemployment compensation		2,000.0	2,000.0
(e)	Workers' compensation retention		15,326.4	15,326.4
(f)	State unemployment compensation		6,780.9	6,780.9
(g)	Employee assistance		650.0	650.0

(4) Information technology:

The purpose of the information technology program is to provide quality information processing services that are both timely and cost-effective so agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a)	Personal services and employee benefits		9,210.1	9,210.1
(b)	Contractual services		7,050.1	7,050.1
(c)	Other	4,926.8	4,926.8	

(d)	Other financing uses	867.1	867.1
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Authorized FTE: 131.00 Permanent

(5) Communications:

The purpose of the communications program is to provide quality communications services that are both timely and cost-effective so that agencies can perform their missions in an effective and responsive manner.

Appropriations:

(a)	Personal services and employee benefits	5,862.7	5,862.7
(b)	Contractual services	321.1	321.1
(c)	Other	16,507.5	16,507.5
(d)	Other financing uses	1,007.4	1,007.4

Authorized FTE: 86.00 Permanent

(6) Business office space management and maintenance services:

The purpose of the business office space management and maintenance services program is to provide employees and the public with effective property management and maintenance so that agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a)	Personal services and employee benefits	7,180.4	7,180.4
(b)	Contractual services	446.0	446.0
(c)	Other	6,094.5	6,094.5
(d)	Other financing uses	337.6	337.6

Authorized FTE: 177.00 Permanent

Performance measures:

(a) Explanatory: Percent of state-controlled space occupied 90%

(b) Efficiency: Percent of property control capital projects on schedule  
within approved budget 90%

(c) Efficiency: Operating costs per square foot in Santa Fe for state-owned buildings \$7.52

(7) 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 that agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a)	Personal services and			
	employee benefits	199.1	1,911.4	2,110.5
(b)	Contractual services	2.0	30.7	32.7
(c)	Other	623.6	7,930.3	8,553.9
(d)	Other financing uses		328.1	328.1

Authorized FTE: 37.00 Permanent

Performance measures:

(a) Explanatory: Percent of short-term vehicle use 80%

(8) 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 that agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a)	Personal services and			
	employee benefits	1,245.8	315.0	1,560.8
(b)	Contractual services		34.3	34.3
(c)	Other	201.6	90.6	292.2
(d)	Other financing uses	132.7	55.8	188.5

Authorized FTE: 26.00 Permanent

Performance measures:

(a) Output: Percent increase in small business clients 10%

(9) Program support:

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

Appropriations:

(a)	Personal services and employee benefits	2,942.0	2,942.0
(b)	Contractual services	350.0	350.0
(c)	Other	309.2	309.2
(d)	Other financing uses	219.4	219.4

Authorized FTE: 48.00 Permanent

Subtotal 515,071.3

**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	3,658.8	3,658.8
(b)	Contractual services	25,485.7	25,485.7
(c)	Other	778.4	778.4

Authorized FTE: 53.00 Permanent

The other state funds appropriation to the educational retirement program of the educational retirement board in the contractual services category includes twenty-three million five hundred seventy-one thousand six hundred dollars (\$23,571,600) to be used only for investment manager fees.

The other state funds appropriation to the educational retirement program of the educational retirement board in the contractual services category includes five hundred twenty-five thousand dollars (\$525,000) for payment of custody services associated with the fiscal agent contract upon monthly assessments.

Performance measures:

(a) Outcome: Average rate of return over a cumulative five-year period 8%

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

Subtotal 29,922.9

### **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	813.9		813.9
(b)	Other	6.0	6.0	
	Subtotal		819.9	

### **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 that their liberty and constitutional rights are protected and to serve the community as a partner in assuring a fair and efficient criminal justice system that also sustains New Mexico's statutory and constitutional mandates to adequately fund a statewide indigent defense system.

Appropriations:

(a)	Personal services and employee benefits	22,033.3		22,033.3
(b)	Contractual services	11,045.0	74.0	11,119.0
(c)	Other	5,896.6	76.0	5,972.6

Authorized FTE: 374.00 Permanent

The general fund appropriation to the criminal legal services program of the public defender department in the personal services and employee benefits category includes seventy-four thousand dollars (\$74,000) and two permanent full-time-equivalent positions for the mental health court program at Bernalillo county metropolitan court.

Performance measures:

(a) Output:	Number of alternative sentencing treatment placements for felony and juvenile clients	3,500	
(b) Output:	Number of expert witness services approved by the department	3,500	
(c) Efficiency:	Percent of cases in which application fees were collected	40%	
(d) Quality:	Percent of felony cases resulting in a reduction of original formally filed charges	60%	
(e) Explanatory:	Annual attorney full-time-equivalent turnover rate	9%	
Subtotal		39,124.9	

**GOVERNOR:**

(1) Executive management and leadership:

The purpose of the executive management and leadership program is to provide appropriate management and leadership to the citizens of the state and, more specifically, to the executive branch of government to allow for more efficient and effective operation of the agencies within that branch of government.

Appropriations:

(a)	Personal services and employee benefits	4,036.9	4,036.9
(b)	Contractual services	110.1	110.1
(c)	Other	541.7	541.7

Authorized FTE: 45.30 Permanent

Subtotal	4,688.7
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**LIEUTENANT GOVERNOR:**

(1) State ombudsman:

The purpose of the state ombudsman program is to facilitate and promote cooperation and understanding between the citizens of New Mexico and the agencies of state government, refer any complaints or special problems citizens may have to the proper entities and keep records of activities and make an annual report to the governor.

Appropriations:

(a)	Personal services and
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	employee benefits	642.3	642.3
(b)	Contractual services	106.5	106.5
(c)	Other	56.2	56.2
	Authorized FTE: 8.00 Permanent		
	Subtotal		805.0

**OFFICE OF THE CHIEF INFORMATION OFFICER:**

(1) Information technology management:

The purpose of the information technology 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	950.7	950.7
(b)	Contractual services	10.7	10.7
(c)	Other	139.9	139.9
	Authorized FTE: 11.00 Permanent		
	Subtotal		1,101.3

**PUBLIC EMPLOYEES RETIREMENT ASSOCIATION:**

(1) Pension administration:

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

Appropriations:

(a)	Personal services and		
	employee benefits	5,400.2	5,400.2
(b)	Contractual services	28,531.5	28,531.5
(c)	Other	1,907.1	1,907.1

Authorized FTE: 72.00 Permanent; 12.00 Term

The other state funds appropriation to the pension administration program of the public employees retirement association in the contractual services category includes twenty-six million sixty thousand dollars (\$26,060,000) to be used only for investment manager fees.

The other state funds appropriation to the pension administration program of the public employees retirement association in the contractual services category includes one million three hundred thousand dollars (\$1,300,000) for payment of custody services associated with the fiscal agent contract upon monthly assessments.

Performance measures:

(a) Outcome: Five-year average annualized investment returns to exceed  
internal benchmark, in basis points >50

(b) Efficiency: Average number of days to respond to requests for benefit  
estimates, military buy-backs and service credit  
verifications 15-30

(c) Outcome: Five-year annualized performance ranking in a national  
survey of fifty to sixty similar large public pension plans  
in the United States, as a percentile >49th

(d) Explanatory: Number of years needed to finance the unfunded actuarial  
accrued liability for the public employees retirement fund  
with current statutory contribution rates 30 or less

Subtotal 35,838.8

## **STATE COMMISSION OF PUBLIC RECORDS:**

(1) Records, information and archival management:

The purpose of the records, information and archival management program is to develop, implement and provide tools, methodologies and services for the benefit of government agencies, historical repositories and the public and to effectively create, preserve, protect and properly dispose of records and facilitate their use and understanding and protect the interests of the citizens of New Mexico.

Appropriations:

(a) Personal services and  
employee benefits 2,285.5 38.9 9.4 2,333.8

(b)	Contractual services	48.0	6.0	54.0
(c)	Other	376.1	122.4 0.6	499.1

Authorized FTE: 39.50 Permanent; 2.00 Term

Performance measures:

(a) Outcome: Maximum number of days between rule effective date and  
online availability 34

(b) Outcome: Percent of total records items scheduled, reviewed, amended  
or replaced within a five-year period 75%

Subtotal 2,886.9

## SECRETARY OF STATE:

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

Appropriations:

(a)	Personal services and employee benefits	2,411.1	2,411.1
(b)	Contractual services	72.0	72.0
(c)	Other	1,458.8 304.0	1,762.8

Authorized FTE: 41.00 Permanent; 1.00 Temporary

Performance measures:

(a) Output: Number of newly registered voters 50,000

Subtotal 4,245.9

## PERSONNEL BOARD:

(1) Human resource management:

The purpose of the human resource management program is to provide through a flexible merit system opportunities, 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 interests of the public.

Appropriations:

(a)	Personal services and employee benefits	4,000.1 60.0	4,060.1
(b)	Contractual services	36.5	36.5
(c)	Other	358.3	358.3

Authorized FTE: 65.00 Permanent

Any unexpended balance in the state employee career development conference fund remaining at the end of fiscal year 2008 shall not revert to the general fund.

~~The general fund appropriation to the human resource management program of the personnel board for the period from October 1, 2007 through June 30, 2008, is contingent on the personnel board submitting to the governor and the legislative finance committee by October 1, 2007, an annual compensation report inclusive of all recommendations for salary structure adjustment and classification upgrades due to market conditions.~~

Performance measures:

- (a) Outcome: Average employee pay as a percent of board-approved comparator market, based on legislative authorization 95%
- (b) Output: Percent of agency-specific human resource audit exceptions corrected within six months of discovery 75%
- (c) Outcome: Average number of days to fill a vacant position 90
- (d) Outcome: Number of agencies with line authority 25
- (e) Outcome: Percent of large agencies that incorporate the state personnel office core management training objectives into their agency-specific management training 90%
- (f) Outcome: Percent of managers in medium to small agencies who successfully complete management and supervision training sponsored by the state personnel office 80%
- (g) Output: Percent of key agencies receiving at least two audit reviews during the fiscal year 95%

(h) Outcome: Percent of new employees who successfully complete their probationary period 85%

Subtotal 4,454.9

### **PUBLIC EMPLOYEES LABOR RELATIONS BOARD:**

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

Appropriations:

(a)	Personal services and		
	employee benefits	241.8	241.8
(b)	Contractual services	4.0	4.0
(c)	Other	83.8	83.8

Authorized FTE: 3.00 Permanent

Subtotal 329.6

### **STATE TREASURER:**

The purpose of the state treasurer 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	2,944.4	9.0 2,953.4
(b)	Contractual services	354.0	354.0
(c)	Other	864.0	864.0

Authorized FTE: 42.00 Permanent

Performance measures:

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

(b) Outcome: One-year annualized investment return on local government

investment pool to exceed internal benchmark, in basis

points 5

Subtotal 4,171.4

<b>TOTAL GENERAL CONTROL</b>	189,706.5	337,554.9	824,671.6	17,310.0
1,369,243.0				

## D. COMMERCE AND INDUSTRY

### BOARD OF EXAMINERS FOR ARCHITECTS:

(1) Architectural registration:

The purpose of the architectural registration program is to safeguard the life and property and promote the public welfare by reviewing evidence of the professional qualification of any person applying to practice architecture in New Mexico.

Appropriations:

(a)	Personal services and		
	employee benefits	230.8	230.8
(b)	Contractual services	14.4	14.4
(c)	Other	94.8	94.8

Authorized FTE: 4.00 Permanent

Subtotal 340.0

### SPORTS AUTHORITY:

The purpose of the New Mexico sports authority is to recruit new events and retain existing events for professional and amateur sports to advance the economy and tourism in the state.

Appropriations:

(a)	Personal services and		
	employee benefits	232.9	232.9
(b)	Contractual services	76.5	76.5
(c)	Other	83.6	83.6

Authorized FTE: 3.00 Permanent

Performance measures:

(a) Outcome: Number of new minor sporting events attracted to New Mexico 7

(b) Outcome: Number of new major sporting events attracted to New Mexico 1

Subtotal 393.0

## **BORDER AUTHORITY:**

(1) Border development:

The purpose of the border development program is to encourage and foster development of the state by developing port facilities and infrastructure at international ports of entry to attract new industries and businesses 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	364.2	364.2
(b)	Contractual services	28.8	28.8
(c)	Other	114.7	114.7

Authorized FTE: 5.00 Permanent

Performance measures:

(a) Outcome: Annual trade share of New Mexico ports within the west

Texas and New Mexico region 3.0%

Subtotal 507.7

## **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 so that they may increase their awareness of New Mexico as a premier tourist destination.

Appropriations:

(a) Personal services and

	employee benefits	1,699.2		1,699.2
(b)	Contractual services	367.2		367.2
(c)	Other	5,081.9	85.0	5,166.9

Authorized FTE: 39.50 Permanent; 1.00 Term

The general fund appropriation to the marketing and promotion program of the tourism department in the personal services and employee benefits category includes forty thousand dollars (\$40,000) for an additional full-time-equivalent position for the visitor information centers.

The general fund appropriation to the marketing and promotion program of the tourism department in the other category includes one million five hundred thousand dollars (\$1,500,000) for direct marketing, promotion and advertising of which one hundred thousand dollars (\$100,000) shall be used on statewide advertising efforts with the state parks division of the energy, minerals and natural resources department and one hundred thousand dollars (\$100,000) shall be used on statewide advertising efforts with the cultural affairs department.

Performance measures:

- (a) Outcome: New Mexico's domestic tourism market share 1.3%
- (b) Outcome: Number of return visitors to New Mexico 17,710,021
- (c) Output: Print advertising conversion rate 25%
- (d) Output: Broadcast conversion rate 34%

(2) Tourism development:

The purpose of the tourism development program is to provide constituent services for communities, regions and other entities so that 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	229.3	229.3	458.6
(b)	Contractual services	20.0	155.0	175.0
(c)	Other	1,086.2	777.4	1,863.6

Authorized FTE: 7.00 Permanent

Performance measures:

- (a) Outcome: Number of partnered cooperative advertising applications

received 35

(b) Outcome: Pounds of litter removed 2,500,000

(c) Output: Number of off-highway vehicle trails developed 3

~~(d) Output: Number of trail remediation and master plans developed 1~~

(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 that the audience can learn about New Mexico from a cultural, historical and educational perspective.

Appropriations:

(a)	Personal services and		
	employee benefits	1,098.8	1,098.8
(b)	Contractual services	972.9	972.9
(c)	Other	2,194.3	2,194.3

Authorized FTE: 17.00 Permanent

Performance measures:

(a) Outcome: Circulation rate 118,000

(b) Output: Advertising revenue per issue \$120.6

(4) Program support:

The purpose of program support is to provide administrative assistance to support the department's programs and personnel so they may be successful in implementing and reaching their strategic initiatives and maintaining full compliance with state rules and regulations.

Appropriations:

(a)	Personal services and		
	employee benefits	1,131.2	1,131.2
(b)	Contractual services	76.8	76.8
(c)	Other	556.5	556.5

Authorized FTE: 17.00 Permanent

The general fund appropriation to program support of the tourism department in the personal services and employee benefits category includes seventy thousand dollars (\$70,000) for a full-time-equivalent information technology applications developer.

The general fund appropriation to program support of the tourism department in the contractual services category includes forty thousand dollars (\$40,000) for attorney services.

Subtotal 15,761.0

## ECONOMIC DEVELOPMENT DEPARTMENT:

### (1) Economic development:

The purpose of the economic development program is to assist communities in preparing 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	1,788.6	1,788.6
(b)	Contractual services	870.0	870.0
(c)	Other	829.0	829.0

Authorized FTE: 27.00 Permanent

The general fund appropriation to the economic development program of the economic development department in the other category includes a total of four hundred twenty-five thousand dollars (\$425,000) for the cooperative advertising program.

#### Performance measures:

- (a) Outcome: Annual net increase in jobs created due to economic development department efforts 6,200
- (b) Outcome: Number of rural jobs created 2,200
- (c) Outcome: Total number of jobs created through business relocations facilitated by the economic development partnership 3,000
- (d) Outcome: Number of jobs created by the mainstreet program 180

### (2) Film:

The purpose of the film program is to maintain the core business for film location services and stimulate growth in digital film media to maintain the economic vitality of the New Mexico film industry.

Appropriations:

(a)	Personal services and employee benefits	673.5	673.5
(b)	Contractual services	95.0	95.0
(c)	Other	354.4	354.4

Authorized FTE: 12.00 Permanent

Performance measures:

- (a) Outcome: Number of media industry worker days 110,000
- (b) Outcome: Number of films and media projects principally made in New Mexico 80

(3) Mexican affairs:

The purpose of the Mexican affairs program is to produce new high-paying employment opportunities for New Mexicans so they can increase their wealth and improve their quality of life.

Appropriations:

(a)	Personal services and employee benefits	201.2	201.2
(b)	Contractual services	80.5	80.5
(c)	Other	86.0	86.0

Authorized FTE: 3.00 Permanent

Performance measures:

- (a) Outcome: Dollar value of New Mexico exports to Mexico as a result of the Mexican affairs program, in millions \$350

(4) Technology commercialization:

The purpose of the technology commercialization program is to increase the start-up, relocation and growth of technology-based businesses in New Mexico to give New Mexico citizens the opportunity for high-paying jobs.

Appropriations:

(a)	Personal services and			
	employee benefits	216.0		216.0
(b)	Other	37.7	37.7	
	Authorized FTE: 3.00 Permanent			

(5) 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	1,546.5		1,546.5
(b)	Contractual services	1,569.7		1,569.7
(c)	Other	311.4	311.4	
	Authorized FTE: 22.00 Permanent			

Subtotal 8,659.5

**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 examinations; 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	7,720.6	112.4	109.0	7,942.0
(b)	Contractual services	60.2			60.2
(c)	Other	1,800.9	100.0	1,900.9	

Authorized FTE: 134.00 Permanent; 3.00 Term

The general fund appropriation to the construction industries and manufactured housing program of the regulation and licensing department in the personal services and employee benefits category includes three hundred fifty thousand dollars (\$350,000) for additional full-time-equivalent positions.

Performance measures:

(a) Output: Percent of consumer complaint cases resolved out of the total number of complaints filed 90%

(b) Efficiency: Percent of reviews of commercial plans completed within a standard time based on valuation of project 90%

**(2) Financial institutions and securities:**

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

Appropriations:

(a)	Personal services and employee benefits	2,739.2	79.4	2,818.6
(b)	Contractual services	7.3	200.0	207.3
(c)	Other	319.0	216.3	535.3

Authorized FTE: 46.00 Permanent

Performance measures:

(a) Outcome: Percent of statutorily complete applications processed within a standard number of days by type of application 93%

(b) Outcome: Percent of examination reports mailed to a depository institution within thirty days of exit from the institution or the exit conference meeting 100%

**(3) Alcohol and gaming:**

The purpose of the alcohol and gaming program is to regulate the sale, service and public consumption of alcoholic beverages; regulate the holding, operating and conducting of certain games of chance by licensing qualified people; and, in cooperation with the department of public safety, enforce the Liquor Control Act and the Bingo and Raffle Act to protect the health, safety and welfare of the citizens of and visitors to New Mexico.

Appropriations:

(a)	Personal services and			
	employee benefits	839.1		839.1
(b)	Contractual services	42.1		42.1
(c)	Other	71.4	71.4	

Authorized FTE: 15.00 Permanent

Performance measures:

(a) Outcome:	Number of days to issue new or transfer liquor licenses	125
(b) Output:	Number of days to resolve an administrative citation	46

**(4) Program support:**

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

Appropriations:

(a)	Personal services and			
	employee benefits	1,809.1	65.5	600.8
				2,475.4
(b)	Contractual services	177.0		70.0
				247.0
(c)	Other	409.2	251.3	660.5

Authorized FTE: 35.70 Permanent; 1.00 Term

**(5) New Mexico state board of public accountancy:**

The purpose of the public accountancy board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and			
	employee benefits		259.2	259.2
(b)	Contractual services		21.6	21.6
(c)	Other	153.6		153.6
(d)	Other financing uses		56.5	56.5

Authorized FTE: 5.00 Permanent

**(6) Board of acupuncture and oriental medicine:**

The purpose of the acupuncture and oriental medicine board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	156.9	156.9
(b)	Contractual services	24.0	24.0
(c)	Other	20.7	20.7
(d)	Other financing uses	15.6	15.6

Authorized FTE: 3.20 Permanent

Performance measures:

- (a) Output: Average number of days to process completed application and issue a license 5

**(7) New Mexico athletic commission:**

The purpose of the athletic commission program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	63.7	63.7
(b)	Contractual services	14.0	14.0
(c)	Other	24.1	24.1
(d)	Other financing uses	22.7	22.7

Authorized FTE: 1.00 Permanent

Performance measures:

- (a) Output: Average number of days to process a completed application

and issue a license 5

**(8) Athletic trainer practice board:**

The purpose of the athletic trainer practice board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	11.5	11.5
(b)	Contractual services	0.9	0.9
(c)	Other	6.4	6.4
(d)	Other financing uses	2.9	2.9

Authorized FTE: .20 Permanent

Performance measures:

- (a) Output: Average number of days to process a completed application  
and issue a license 5

**(9) Board of barbers and cosmetology:**

The purpose of the barbers and cosmetology board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	419.1	419.1
(b)	Contractual services	50.0	50.0
(c)	Other	95.8	95.8
(d)	Other financing uses	96.1	96.1

Authorized FTE: 9.90 Permanent

Performance measures:

- (a) Output: Average number of days to process a completed application

and issue a license 5

**(10) Chiropractic board:**

The purpose of the chiropractic board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	122.8	122.8
(b)	Contractual services	1.6	1.6
(c)	Other	25.9	25.9
(d)	Other financing uses	18.1	18.1

Authorized FTE: 2.10 Permanent

**(11) Counseling and therapy board:**

The purpose of the counseling and therapy board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	263.7	263.7
(b)	Contractual services	15.5	15.5
(c)	Other	118.7	118.7
(d)	Other financing uses	59.0	59.0

Authorized FTE: 5.90 Permanent

**(12) New Mexico board of dental health care:**

The purpose of the dental health care board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	287.5	287.5

(b)	Contractual services	21.7	21.7
(c)	Other	67.3	67.3
(d)	Other financing uses	57.5	57.5

Authorized FTE: 5.90 Permanent

Performance measures:

- (a) Output: Average number of days to process a completed application  
and issue a license 5

**(13) Interior design board:**

The purpose of the interior design board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	10.7	10.7
(b)	Other	11.5	11.5
(c)	Other financing uses	6.7	6.7

Authorized FTE: .20 Permanent

**(14) Board of landscape architects:**

The purpose of the landscape architects board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	19.2	19.2
(b)	Contractual services	0.3	0.3
(c)	Other	10.6	10.6
(d)	Other financing uses	4.6	4.6

Authorized FTE: .30 Permanent

**(15) Board of massage therapy:**

The purpose of the massage therapy board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	154.3	154.3
(b)	Contractual services	18.0	18.0
(c)	Other	56.1	56.1
(d)	Other financing uses	30.6	30.6

Authorized FTE: 3.50 Permanent

**(16) Board of nursing home administrators:**

The purpose of the nursing home administrators board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	28.3	28.3
(b)	Contractual services	0.2	0.2
(c)	Other	8.3	8.3
(d)	Other financing uses	7.2	7.2

Authorized FTE: .60 Permanent

**(17) Nutrition and dietetics practice board:**

The purpose of the nutrition and dietetics practice board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	19.8	19.8
(b)	Other	12.2	12.2

(c)	Other financing uses	3.2	3.2
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Authorized FTE: .30 Permanent

**(18) Board of examiners for occupational therapy:**

The purpose of the occupational therapy practice board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	44.0	44.0
(b)	Contractual services	2.0	2.0
(c)	Other	18.0	18.0
(d)	Other financing uses	8.9	8.9

Authorized FTE: .60 Permanent

Performance measures:

(a) Output: Average number of days to process a completed application  
and issue a license 5

**(19) Board of optometry:**

The purpose of the optometry board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	47.3	47.3
(b)	Contractual services	11.5	11.5
(c)	Other	13.0	13.0
(d)	Other financing uses	9.2	9.2

Authorized FTE: .80 Permanent

Performance measures:

(a) Output: Average number of days to process a completed application  
and issue a license 5

**(20) Board of osteopathic medical examiners:**

The purpose of the osteopathic medical examiners board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	65.0	65.0
(b)	Contractual services	2.0	2.0
(c)	Other	25.3	25.3
(d)	Other financing uses	7.4	7.4

Authorized FTE: 1.00 Permanent

**(21) Board of pharmacy:**

The purpose of the pharmacy board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	1,073.6	1,073.6
(b)	Contractual services	32.5	32.5
(c)	Other	276.4	276.4
(d)	Other financing uses	235.0	235.0

Authorized FTE: 12.00 Permanent

Performance measures:

(a) Output: Average number of days to process a completed application  
and issue a license 5

(b) Efficiency: Average number of hours to respond to telephone complaints 24

**(22) Physical therapy board:**

The purpose of the physical therapy board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	82.6	82.6
(b)	Contractual services	3.0	3.0
(c)	Other	29.2	29.2
(d)	Other financing uses	18.5	18.5

Authorized FTE: 1.60 Permanent

**(23) Board of podiatry:**

The purpose of the podiatry board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	19.1	19.1
(b)	Contractual services	0.5	0.5
(c)	Other	10.8	10.8
(d)	Other financing uses	3.7	3.7

Authorized FTE: .30 Permanent

**(24) Private investigators and polygraphers advisory board:**

The purpose of the private investigators and polygraphers advisory board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	72.3	72.3
(b)	Contractual services	5.0	5.0

(c)	Other	32.8	32.8
(d)	Other financing uses	22.8	22.8

Authorized FTE: 1.40 Permanent

**(25) New Mexico state board of psychologist examiners:**

The purpose of the psychologist examiners board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	109.1	109.1
(b)	Contractual services	20.0	20.0
(c)	Other	48.7	48.7
(d)	Other financing uses	29.8	29.8

Authorized FTE: 2.30 Permanent

Performance measures:

- (a) Output: Average number of days to process a completed application  
and issue a license 5

**(26) Real estate appraisers board:**

The purpose of the real estate appraisers board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and employee benefits	92.7	92.7
(b)	Contractual services	12.5	12.5
(c)	Other	36.8	36.8
(d)	Other financing uses	24.3	24.3

Authorized FTE: 2.10 Permanent

**(27) New Mexico real estate commission:**

The purpose of the real estate commission program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	540.7	540.7
(b)	Contractual services	406.5	406.5
(c)	Other	282.9	282.9
(d)	Other financing uses	395.8	395.8

Authorized FTE: 11.00 Permanent

**(28) Advisory board of respiratory care practitioners:**

The purpose of the respiratory care board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	49.9	49.9
(b)	Other	6.7	6.7
(c)	Other financing uses	9.5	9.5

Authorized FTE: .80 Permanent

**(29) Board of social work examiners:**

The purpose of the social work examiners board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	241.2	241.2
(b)	Contractual services	3.0	3.0
(c)	Other	88.5	88.5

(d)	Other financing uses	44.0	44.0
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Authorized FTE: 5.00 Permanent

**(30) Speech language pathology, audiology and hearing aid dispensing practices board:**

The purpose of the speech language pathology, audiology and hearing aid dispensing practices board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	111.9	111.9
(b)	Contractual services	2.7	2.7
(c)	Other	21.5	21.5
(d)	Other financing uses	23.0	23.0

Authorized FTE: 2.00 Permanent

**(31) Board of thanatopractice:**

The purpose of the thanatopractice board program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring that licensed professionals are qualified to practice.

Appropriations:

(a)	Personal services and		
	employee benefits	94.6	94.6
(b)	Contractual services	7.5	7.5
(c)	Other	35.4	35.4
(d)	Other financing uses	13.0	13.0

Authorized FTE: 1.80 Permanent

Performance measures:

(a) Output:	Average number of days to process a completed application
	and issue a license
	5

**(32) Naprapathy board:**

Appropriations:

(a)	Other	5.4	5.4
	Subtotal		25,705.2

**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 that the interests of the consumers and regulated industries are balanced to promote and protect the public interest.

Appropriations:

(a)	Personal services and			
	employee benefits	6,855.1	136.1	6,991.2
(b)	Contractual services	256.1		256.1
(c)	Other	741.3	741.3	

Authorized FTE: 89.70 Permanent

The internal services funds/interagency transfers appropriation to the policy and regulation program of the public regulation commission in the personal services and employee benefits category includes forty-five thousand four hundred dollars (\$45,400) from the pipeline safety fund and ninety thousand seven hundred dollars (\$90,700) from the insurance operations fund.

Performance measures:

(a) Outcome: Average commercial electric rate comparison between major

New Mexico utilities and selected utilities in regional

western states +/-5%

(b) Efficiency: Percent of cases processed in less than the statutory time

allowance 100%

(c) Output: Number of formal complaints processed by the transportation

division 70

(d) Efficiency: Average number of days for a rate case to reach final order <240

(2) Insurance policy:

The purpose of the insurance policy program is to assure easy public access to reliable insurance products that meet consumers' needs and are underwritten by dependable, reputable, financially sound companies that charge fair rates and are represented by trustworthy, qualified agents, while promoting a positive competitive business climate.

Appropriations:

(a)	Personal services and		
	employee benefits	5,160.3	5,160.3
(b)	Contractual services	392.7	392.7
(c)	Other	792.6	792.6

Authorized FTE: 87.00 Permanent

The internal service funds/interagency transfers appropriations to the insurance policy program of the public regulation commission include forty-one thousand one hundred dollars (\$41,100) from the title insurance maintenance assessment fund, one hundred two thousand eight hundred dollars (\$102,800) from the insurance fraud fund, four hundred twenty-eight thousand one hundred dollars (\$428,100) from the agents' surcharge fund, two hundred forty-one thousand five hundred dollars (\$241,500) from the patient's compensation fund, eight thousand six hundred dollars (\$8,600) from the fire protection fund and four million one hundred ninety-five thousand eight hundred dollars (\$4,195,800) from the insurance operations fund.

The internal service funds/interagency transfers appropriations to the insurance policy program of the public regulation commission include one million ninety-seven thousand six hundred dollars (\$1,097,600) for the insurance fraud bureau from the insurance fraud fund.

The internal service funds/interagency transfers appropriations to the insurance policy program of the public regulation commission include two hundred thirty thousand one hundred dollars (\$230,100) for the title insurance bureau from the title insurance maintenance assessment fund.

Performance measures:

- (a) Output: Percent of internal and external insurance-related grievances closed within one hundred eighty days of filing 95%
- (b) Output: Percent of form and rate filings processed within ninety days 100%
- (c) Efficiency: Percent of insurance fraud bureau complaints processed and recommended for either further administrative action or closure within sixty days 85%

(3) Public safety:

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

Appropriations:

(a)	Personal services and			
	employee benefits	2,834.5	346.3	3,180.8
(b)	Contractual services	283.5	36.1	319.6
(c)	Other	1,657.6	113.4	1,771.0

Authorized FTE: 52.30 Permanent; 1.00 Term

The internal service funds/interagency transfers appropriations to the public safety program of the public regulation commission include two million two hundred forty-five thousand eight hundred dollars (\$2,245,800) for the office of the state fire marshal from the fire protection fund.

The internal service funds/interagency transfers appropriations to the public safety program of the public regulation commission include one million four hundred ninety-two thousand three hundred dollars (\$1,492,300) for the firefighter training academy from the fire protection fund.

The internal service funds/interagency transfers appropriations to the public safety program of the public regulation commission include seven hundred forty-two thousand dollars (\$742,000) for the pipeline safety bureau from the pipeline safety fund.

Performance measures:

(a) Outcome: Percent of fire departments' insurance service office ratings of nine or ten that have been reviewed by survey or audit 90%

(b) Output: Number of personnel completing training through the state firefighter training academy 3,700

(4) Program support:

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

Appropriations:

(a)	Personal services and			
	employee benefits	2,398.8	479.9	2,878.7

(b)	Contractual services	119.5	119.5
(c)	Other	412.9	412.9

Authorized FTE: 53.00 Permanent

The internal service funds/interagency transfers appropriation to program support of the public regulation commission includes two hundred thirty-eight thousand nine hundred dollars (\$238,900) from the fire protection fund, sixty-nine thousand one hundred dollars (\$69,100) from the insurance fraud fund, one hundred twenty thousand dollars (\$120,000) from the reproduction fund, thirty-eight thousand nine hundred dollars (\$38,900) from the title insurance maintenance assessment fund and thirteen thousand dollars (\$13,000) from the patient's compensation fund.

(5) Patient's compensation fund:

Appropriations:

(a)	Contractual services	435.0	435.0
(b)	Other	10,050.0	10,050.0
(c)	Other financing uses	241.5	241.5

Subtotal  
33,743.2

## MEDICAL BOARD:

(1) Licensing and certification:

The purpose of the licensing and certification program is to provide regulation and licensure to medical doctors, physician assistants and anesthesiologist assistants and to ensure competent and ethical medical care to consumers.

Appropriations:

(a)	Personal services and employee benefits	871.3	871.3
(b)	Contractual services	305.1	305.1
(c)	Other	284.0	284.0

Authorized FTE: 13.00 Permanent

Performance measures:

(a) Output:	Number of biennial physician assistant licenses issued or renewed	309
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(b) Outcome: Number of days to issue a physician license 80

Subtotal 1,460.4

### **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 can provide competent and professional healthcare services to consumers.

Appropriations:

(a)	Personal services and		
	employee benefits	1,016.2	1,016.2
(b)	Contractual services	195.5	195.5
(c)	Other	490.2	490.2

Authorized FTE: 18.00 Permanent

Performance measures:

(a) Output: Number of licenses issued 11,500

Subtotal 1,701.9

### **NEW MEXICO STATE FAIR:**

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

Appropriations:

(a)	Personal services and		
	employee benefits	6,347.0	6,347.0
(b)	Contractual services	3,747.5	3,747.5
(c)	Other	4,075.1 696.0	4,771.1

Authorized FTE: 77.00 Permanent

The internal services funds/interagency transfers appropriation to the New Mexico state fair in the other category includes six hundred ninety-six thousand dollars (\$696,000) from parimutuel revenues for debt service on negotiable bonds issued for capital improvements.

Performance measures:

(a) Outcome:	Percent of surveyed attendees at the annual state fair event rating their experience as satisfactory or better	94%
(b) Output:	Number of paid attendees at annual state fair event	500,000
(c) Output:	Percent of surveyed attendees at the annual state fair event rating the state fair as improved	48%
(d) Output:	Number of total attendees at annual state fair event	675,000
Subtotal		14,865.6

**STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND 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	310.2	310.2
(b)	Contractual services	63.0	63.0
(c)	Other	218.7	218.7

Authorized FTE: 7.00 Permanent

Subtotal	591.9
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**GAMING CONTROL BOARD:**

(1) Gaming control:

The purpose of the gaming control program is to provide strictly regulated gaming activities and to promote responsible gaming to the citizens of New Mexico so they can attain a strong level of confidence in the board's administration of gambling laws and assurance that the state has honest and competitive gaming free from criminal and corruptive elements and influences.

Appropriations:

(a)	Personal services and employee benefits	4,074.8	4,074.8
(b)	Contractual services	740.7	740.7
(c)	Other	1,373.6	1,373.6

Authorized FTE: 63.00 Permanent; .50 Temporary

Performance measures:

- (a) Output: Percent variance identified between actual tribal quarterly payments to the state and the audited financial statements received from the tribe 10%
- (b) Quality: Percent of time central monitoring system is operational 100%
- (c) Outcome: Ratio of gaming revenue generated to general funds expended 20:1

Subtotal 6,189.1

**STATE RACING COMMISSION:**

(1) Horseracing regulation:

The purpose of the horseracing regulation program is to provide regulation in an equitable manner to New Mexico's parimutuel horseracing 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	1,167.3	1,167.3
(b)	Contractual services	865.4	865.4
(c)	Other	280.1	280.1

Authorized FTE: 17.30 Permanent; .60 Term; 1.80 Temporary

Performance measures:

- (a) Outcome: Percent of equine samples testing positive for illegal substances .8%

(b) Efficiency: Average regulatory cost per live race day at each racetrack \$4,000

Subtotal 2,312.8

**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 in order to protect the public.

Appropriations:

(a)	Personal services and		
	employee benefits	143.7	143.7
(b)	Contractual services	89.5	89.5
(c)	Other	54.7	54.7

Authorized FTE: 3.00 Permanent

Performance measures:

(a) Output: Number of veterinarian licenses issued annually 60

Subtotal 287.9

**CUMBRES AND TOLTEC SCENIC RAILROAD COMMISSION:**

The purpose of the Cumbres and Toltec scenic railroad commission is to provide railroad excursions into the scenic San Juan mountains.

Appropriations:

(a)	Personal services and		
	employee benefits	100.0 43.0	143.0
(b)	Contractual services	3,103.4	3,103.4
(c)	Other	39.0	39.0

Authorized FTE: 3.00 Permanent; .10 Temporary

Any revenues generated by the Cumbres and Toltec scenic railroad commission in fiscal year 2008, including but not limited to ticket sales, are appropriated to the Cumbres and Toltec scenic railroad commission for use toward operating expenses of the railroad.

Subtotal 3,285.4

**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	96.9	96.9
(b)	Contractual services	20.0	20.0
(c)	Other	33.1	33.1

Authorized FTE: 1.00 Term

Performance measures:

(a) Outcome: Number of community support organizations benefitting from the activities of the commission and the office 3

Subtotal 150.0

**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	215.3	215.3
(b)	Other	42.4	42.4

Authorized FTE: 3.00 Permanent

Subtotal 257.7

<b>TOTAL COMMERCE AND INDUSTRY</b>	55,596.9	45,381.2	14,629.4	604.8
116,212.3				

## E. AGRICULTURE, ENERGY AND NATURAL RESOURCES

### CULTURAL AFFAIRS DEPARTMENT:

#### (1) Museums and monuments:

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

Appropriations:

(a)	Personal services and employee benefits	14,962.3	1,947.5	143.0	17,052.8
(b)	Contractual services	895.8	641.7	5.0	1,542.5
(c)	Other	4,368.5	1,714.9	50.1	6,133.5

Authorized FTE: 318.20 Permanent; 48.30 Term

Performance measures:

- (a) Output: Attendance to museum and monument exhibitions,  
performances, films and other presentation programs 835,000
- (b) Output: Number of participants to off-site educational, outreach  
and special events related to museum missions 66,550
- (c) Output: Number of participants at on-site educational, outreach and  
special events related to museum missions 326,000

#### (2) Preservation:

The purpose of the preservation program is to identify, study and protect New Mexico's unique cultural resources, including its archaeological sites, architectural and engineering achievements, cultural landscapes and diverse heritage.

Appropriations:

(a)	Personal services and employee benefits	786.0	2,366.3	941.6	4,093.9
(b)	Contractual services	51.0	150.0	127.0	328.0

(c) Other 100.6 216.9 250.3 567.8

Authorized FTE: 36.00 Permanent; 39.50 Term; 6.00 Temporary

The internal services funds/interagency transfers 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 related to highway projects.

Performance measures:

(a) Output: Annually completed number of historic structures preserved,  
using preservation tax credits 47

(b) Output: Value of construction underway on historic buildings using  
state and federal tax credits, in millions \$5

### **(3) Library services:**

The purpose of the library services program is to empower libraries to support the educational, economic and health goals of their communities and to deliver direct library and information services to those who need them.

Appropriations:

(a)	Personal services and employee benefits	2,145.7	836.2	2,981.9
(b)	Contractual services	732.8	289.4	1,022.2
(c)	Other	866.7 35.0	315.8	1,217.5

Authorized FTE: 42.00 Permanent; 19.50 Term

Performance measures:

(a) Outcome: Percent of grant funds from recurring appropriations  
distributed to communities outside of Santa Fe, Albuquerque  
and Las Cruces 75%

(b) Output: Total number of library materials catalogued in system wide  
access to libraries in state agencies and keystone library  
automation system online databases, available through the  
internet 965,000

**(4) Arts:**

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

Appropriations:

(a)	Personal services and			
	employee benefits	698.5	162.3	860.8
(b)	Contractual services	1,167.7	412.7	1,580.4
(c)	Other	132.5	132.5	

Authorized FTE: 10.50 Permanent; 4.50 Term

~~The general fund appropriation to the arts program of the cultural affairs department in the contractual services category includes twenty-five thousand dollars (\$25,000) for a national flute convention in Albuquerque.~~

Performance measures:

- (a) Outcome: Percent of grant funds from recurring appropriations distributed to communities outside of Santa Fe, Albuquerque and Las Cruces 32%
- (b) Output: Attendance at programs provided by arts organizations statewide, funded by New Mexico arts from recurring appropriations 1,800,000

(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	3,185.1	93.3	3,278.4
(b)	Contractual services	371.1	17.5	388.6
(c)	Other	164.6	6.0	170.6

Authorized FTE: 43.70 Permanent; 1.00 Term; 2.00 Temporary

Any unexpended balance in the cultural affairs department remaining at the end of fiscal year 2008 from appropriations made from the general fund shall not revert.

Performance measures:

(a) Outcome: Percent of performance targets in the General Appropriation

Act that were met (excluding this measure) 80%

(b) Output: Percent reduction in number of budget adjustment requests

processed annually, excluding budget adjustment requests

for additional revenues 16%

Subtotal 41,351.4

**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 diseases of livestock.

Appropriations:

(a)	Personal services and			
	employee benefits	619.9	2,444.8	3,064.7
(b)	Contractual services		252.1	252.1
(c)	Other	935.7	153.0	1,088.7

Authorized FTE: 65.20 Permanent

Performance measures:

(a) Output: Number of road stops per month30

(b) Outcome: Number of livestock thefts reported per one thousand head

inspected 1

(2) Meat inspection:

The purpose of the meat inspection program is to provide meat inspection service to meat processors and slaughterers to assure consumers of clean, wholesome and safe products.

Appropriations:

(a)	Personal services and				
	employee benefits	599.5		599.4	1,198.9
(b)	Contractual services		8.8		8.8
(c)	Other	90.8	83.6	40.9	215.3

Authorized FTE: 21.80 Permanent

Performance measures:

- (a) Outcome: Percent of inspections where violations are found 3%
- (b) Output: Number of compliance visits made to approved establishments 8,000
- (c) Outcome: Number of violations resolved within one day 225

(3) Administration:

The purpose of the administration program is to provide administrative and logistical services to employees.

Appropriations:

(a)	Personal services and				
	employee benefits	77.8	453.7	10.0	541.5
(b)	Contractual services		35.1		35.1
(c)	Other	80.6	81.6		162.2

Authorized FTE: 8.00 Permanent

The New Mexico livestock board shall submit vouchers to the department of finance and administration and shall not be granted nonvouchering status for fiscal year 2008.

Subtotal 6,567.3

**DEPARTMENT OF GAME AND FISH:**

(1) Sport hunting and fishing:

The purpose of the sport hunting and fishing program is to provide a statewide system for hunting activities as well as self-sustaining and hatchery-supported fisheries, taking into account hunter safety, quality hunts, high-demand areas, guides and outfitters, quotas and ensuring that local and financial interests receive consideration.

Appropriations:

(a)	Personal services and employee benefits	50.0	7,426.0	4,714.5	12,190.5
(b)	Contractual services		789.9	633.6	1,423.5
(c)	Other	45.0	2,405.9	3,040.4	5,491.3
(d)	Other financing uses		264.6	232.7	497.3

Authorized FTE: 191.00 Permanent; 2.00 Term; 4.00 Temporary

Performance measures:

- (a) Outcome: Angler opportunity and success 80%
- (b) Outcome: Number of days of elk-hunting opportunity provided to New Mexico resident hunters on an annual basis 165,000
- (c) Outcome: Percent of public hunting licenses drawn by New Mexico resident hunters 80%
- (d) Output: Annual output of fish from the department's hatchery system, in pounds 425,000

(2) Conservation services:

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

Appropriations:

(a)	Personal services and employee benefits	189.2	786.7	1,513.2	2,489.1
(b)	Contractual services	20.0	455.4	849.3	1,324.7
(c)	Other	5.0	2,841.0	966.7	3,812.7

Authorized FTE: 32.00 Permanent; 8.00 Term; .50 Temporary

Performance measures:

- (a) Output: Number of threatened and endangered species monitored, studied or involved in the recovery plan process 35

(b) Outcome: Number of gaining access into nature opportunities offered 30

(c) Outcome: Number of acres of wildlife habitat conserved, enhanced or positively affected statewide 100,000

(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, annoyances or risks to public safety caused by protected wildlife.

Appropriations:

(a)	Personal services and		
	employee benefits	314.4	314.4
(b)	Contractual services	179.7	179.7
(c)	Other	674.8	674.8

Authorized FTE: 5.00 Permanent

Performance measures:

(a) Outcome: Percent of depredation complaints resolved within the mandated one-year timeframe 95%

(4) Program support:

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

Appropriations:

(a)	Personal services and		
	employee benefits	4,016.2	4,113.4
(b)	Contractual services	234.4	523.6
(c)	Other	1,926.4	2,152.8

Authorized FTE: 57.00 Permanent; 2.00 Term

Subtotal 35,187.8

## ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT:

### (1) Renewable energy and energy efficiency:

The purpose of the renewable energy and energy efficiency program is to develop and implement clean energy programs in order 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	1,126.5	141.8	1,268.3	
(b)	Contractual services	2.6	323.3	325.9	
(c)	Other	6.9	85.7	92.6	

Authorized FTE: 13.00 Permanent; 2.00 Term

#### Performance measures:

(a) Outcome: Percent of inventoried alternative energy projects  
evaluated annually 30%

(b) Outcome: Percent reduction in energy use in public facilities  
receiving energy, minerals and natural resources department  
funding for efficiency retrofit projects 10%

(c) Outcome: Percent decrease in gasoline consumption by state and local  
government fleets through the application of alternative  
transportation fuel technologies 15%

(d) Explanatory: Annual utility costs for state-owned buildings, in dollars \$13,023,000

### (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	3,149.4	226.6	617.9	3,993.9
(b)	Contractual services	103.0	2.0	1,645.0	1,750.0
(c)	Other	142.0	434.7	1,681.9	2,258.6

Authorized FTE: 57.00 Permanent; 11.00 Term

Performance measures:

- (a) Output: Number of nonfederal wildland firefighters provided  
 technical fire training appropriate to their incident  
 command system 500

**(3) State parks:**

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

Appropriations:

(a)	Personal services and				
	employee benefits	8,660.3	3,557.8	375.0	12,593.1
(b)	Contractual services	519.6	74.6	3,435.0	4,029.2
(c)	Other	3,225.9	6,101.9	2,019.5	11,347.3
(d)	Other financing uses			2,499.2	2,499.2

Authorized FTE: 239.00 Permanent; 6.00 Term; 48.00 Temporary

Performance measures:

- (a) Explanatory: Number of visitors to state parks 4,000,000  
 (b) Explanatory: Self-generated revenue per visitor, in dollars \$0.83  
 (c) Output: Number of interpretive programs available to park visitors 2,500  
 (d) Outcome: Percent completion of new parks and park expansion projects  
 receiving appropriations 45%

**(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	372.2	776.6	1,309.6	2,458.4
(b)	Contractual services	19.3	19.8	1,559.8	1,598.9
(c)	Other	53.6	119.4	203.2	376.2

Authorized FTE: 16.00 Permanent; 15.00 Term

Performance measures:

- (a) Outcome: Percent of permitted mines with approved reclamation plans and adequate financial assurance posted to cover the cost of reclamation 100%

**(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 and dynamic regulation.

Appropriations:

(a)	Personal services and					
	employee benefits	3,702.7	294.1	80.0	224.5	4,301.3
(b)	Contractual services	121.2	4,382.1			4,503.3
(c)	Other	444.3	423.8	15.0		883.1
(d)	Other financing uses				118.5	118.5

Authorized FTE: 63.00 Permanent; 5.00 Term

Performance measures:

- (a) Outcome: Percent of inventoried orphaned wells plugged annually 25%
- (b) Output: Number of inspections of oil and gas wells and associated facilities 21,750
- (c) Explanatory: Number of inventoried orphaned wells statewide 90

**(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 goals.

Appropriations:

(a)	Personal services and				
	employee benefits	3,283.8	50.0	364.1	3,697.9
(b)	Contractual services			16.6	16.6
(c)	Other	16.7	371.5	388.2	
(d)	Other financing uses			1,800.0	1,800.0

Authorized FTE: 46.00 Permanent; 3.00 Term

Subtotal 60,300.5

**YOUTH CONSERVATION CORPS:**

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

Appropriations:

(a)	Personal services and				
	employee benefits		139.8		139.8
(b)	Contractual services		2,174.5		2,174.5
(c)	Other	57.2		57.2	
(d)	Other financing uses		50.0		50.0

Authorized FTE: 2.00 Permanent

Performance measures:

(a) Output: Number of projects funded in a year that improve New Mexico's natural resources and provide lasting community benefits 45

(b) Output: Number of youth employed annually 625

(c) Output: Number of cash bonuses and tuition vouchers awarded 18

Subtotal 2,421.5

**INTERTRIBAL CEREMONIAL OFFICE:**

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

Appropriations:

(a)	Personal services and			
	employee benefits	82.0	20.0	102.0
(b)	Contractual services	63.0		63.0
(c)	Other	10.0	10.0	

Authorized FTE: 2.00 Permanent

Performance measures:

(a) Output: Number of intertribal ceremonial tickets sold 20,000

Subtotal 175.0

**COMMISSIONER OF PUBLIC LANDS:**

(1) Land trust stewardship:

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

Appropriations:

(a)	Personal services and			
	employee benefits	9,825.1		9,825.1
(b)	Contractual services	858.2		858.2
(c)	Other	2,155.8	2,155.8	

(d)	Other financing uses	517.1		517.1
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Authorized FTE: 155.00 Permanent

The commissioner of public lands is authorized to hold in suspense amounts received pursuant to agreements entered into for the sale of state royalty interests that, as a result of the sale, became eligible for tax credits under Section 29 of the 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 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) Output:	Total trust revenue generated, in millions	\$382.4
(b) Output:	Percent of total trust revenue generated allocated to beneficiaries	97%
(c) Outcome:	Dollars generated through oil, natural gas and mineral audit activities, in millions	\$5
(d) Output:	Average income per acre from oil, natural gas and mineral activities	\$122.59
(e) Output:	Average income per acre from agriculture leasing activities	\$0.92
(f) Output:	Average income per acre from commercial leasing activities	\$22.80
Subtotal		13,356.2

**STATE ENGINEER:**

(1) Water resource allocation:

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

Appropriations:

(a)	Personal services and			
	employee benefits	10,573.9	421.9	10,995.8
(b)	Contractual services	601.7	1.3	439.0
				1,042.0
(c)	Other	1,141.0	101.0	138.4
				1,380.4

Authorized FTE: 179.00 Permanent

The internal services funds/interagency transfers appropriations to the water resource allocation program of the state engineer include one hundred forty-seven thousand six hundred dollars (\$147,600) from the improvement of Rio Grande income fund and four hundred twenty-nine thousand eight hundred dollars (\$429,800) from the New Mexico irrigation works construction fund.

Performance measures:

- (a) Output: Average number of unprotected new and pending applications processed per month 60
- (b) Output: Average number of protested and aggrieved applications processed per month 9
- (c) Explanatory: Number of unprotected and unaggrieved water-right applications backlogged 850
- (d) Explanatory: Number of protested and aggrieved water-right applications backlogged 250
- (e) Outcome: Percent of applications abstracted into the water administration technical engineering resource system database 58%

(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 3,809.5 55.0 132.0 3,996.5
- (b) Contractual services 2,805.0 8.5 3,080.7 5,894.2
- (c) Other 51.4 2,615.9 2,667.3

Authorized FTE: 54.00 Permanent

The internal services funds/interagency transfers appropriations to the interstate stream compact compliance and water development program of the state engineer include seven hundred eighty-two thousand six hundred dollars (\$782,600) from the improvement of Rio Grande income fund and four

million eight hundred sixty-three thousand seven hundred dollars (\$4,863,700) from the New Mexico irrigation works construction fund.

Revenue from the sale of water to United States government agencies by New Mexico for the emergency drought water agreement dated April 2003, which expires February 28, 2013, and from contractual reimbursements associated with state engineer use of the revenue is appropriated to the state engineer for the conservation and recovery of the listed species in the middle Rio Grande basin, including the optimizing of middle Rio Grande conservancy district operations.

Revenue from the sale of water to United States government agencies by New Mexico resulting from litigation settlement between New Mexico and the United States implemented by the conservation water agreement dated June 29, 2001, and from contractual reimbursements associated with state engineer use of the revenue is appropriated to the state engineer for use as required by the conservation water agreement.

The appropriations to the interstate stream compact compliance and water development program of the state engineer include (1) one million nine hundred thousand dollars (\$1,900,000) to (a) 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 Rio Grande income fund and provided that no more than two hundred fifty thousand dollars (\$250,000) shall be allocated to one acequia per fiscal year, and (b) for the construction, improvement, repair and protection from floods of dams, reservoirs, ditches, flumes and appurtenances of community ditches in the state through the interstate stream commission 80/20 acequia grants program, provided that not more than one hundred twenty thousand dollars (\$120,000) of this appropriation shall be used for any one community ditch and that state funds other than loans may be used to meet the association's twenty percent share of the total cost of the project; and (2) two hundred thousand dollars (\$200,000) for engineering services for approved acequia projects.

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

The interstate stream commission's authority to make loans from the New Mexico irrigation works construction fund includes two million dollars (\$2,000,000) to 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 end of calendar year to be

greater than or equal to zero acre-feet with final

accounting to be available at end of fiscal year 0

(b) Outcome: Rio Grande compact accumulated delivery credit or deficit

at end of calendar year to be greater than or equal to zero 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	1,812.3	2,860.0	4,672.3
(b)	Contractual services	50.0	1,681.0	1,731.0
(c)	Other	113.5	232.0	345.5

Authorized FTE: 72.00 Permanent

The internal services funds/interagency transfers appropriations to the litigation and adjudication program of the state engineer include one million nine hundred thirteen thousand dollars (\$1,913,000) from the New Mexico irrigation works construction fund and two million eight hundred sixty thousand dollars (\$2,860,000) from the proceeds of severance tax bonds issued pursuant to Section 7-27-10.1 NMSA 1978.

Performance measures:

- (a) Outcome: Number of offers to defendants in adjudications 1,000
- (b) Outcome: Percent of all water rights that have judicial determinations 42%

(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	3,303.1		3,303.1
(b)	Contractual services	29.9	200.0	229.9
(c)	Other	241.6	263.9	505.5

Authorized FTE: 44.00 Permanent

The internal services funds/interagency transfers appropriations to the program support program of the state engineer include four hundred sixty-three thousand nine hundred dollars (\$463,900) from the New Mexico irrigation works construction fund.

Performance measures:

(a) Output: Percent of department contracts that include performance  
measures 100%

(5) New Mexico irrigation works construction fund:

Appropriations:

(a)	Other financing uses	5,874.1	1,796.3	7,670.4
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(6) Debt service fund:

Appropriations:

(a)	Other	270.0	270.0
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(7) Improvement of Rio Grande income fund:

Appropriations:

(a)	Other financing uses	935.0	935.0
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(8) Hydrographic income fund:

Appropriations:

(a)	Other financing uses	7,050.0	7,050.0
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	Subtotal	52,688.9	
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**ORGANIC COMMODITY COMMISSION:**

(1) New Mexico organic:

The purpose of the New Mexico organic program is to provide consumers of organic products in New Mexico with credible assurance about the veracity of organic claims made and to enhance the development of local economies tied to agriculture through rigorous regulatory oversight of the organic industry in New Mexico and through ongoing educational and market assistance projects.

Appropriations:

(a)	Personal services and employee benefits	216.4	216.4
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(b)	Contractual services	3.4	76.0	79.4
(c)	Other	74.0	10.0	84.0

Authorized FTE: 4.00 Permanent

Performance measures:

(a) Outcome: Percent increase in New Mexico organic market as measured  
by clients' gross sales of organic products 10%

(b) Output: Percent of organic farms inspected annually 100%

Subtotal 379.8

<b>TOTAL AGRICULTURE, ENERGY AND NATURAL RESOURCES</b>	82,201.4	48,397.3	48,635.1	33,194.6
	212,428.4			

## F. HEALTH, HOSPITALS AND HUMAN SERVICES

### COMMISSION ON THE STATUS OF WOMEN:

(1) Status of women:

The purpose of the status of women program is to provide information, public events, leadership, support services and career development to individuals, agencies and women's organizations so they can improve the economic, health and social status of women in New Mexico.

Appropriations:

(a)	Personal services and employee benefits	400.6	358.4	759.0
(b)	Contractual services	26.9	22.5	835.8
(c)	Other	179.9	81.2	245.8
				506.9

Authorized FTE: 7.00 Permanent; 7.00 Term

The internal service funds/interagency transfers appropriations to the status of women program of the commission on the status of women include one million four hundred forty thousand dollars (\$1,440,000) for the teamworks program directed toward workforce development for adult women on temporary assistance for needy families from the federal block grant to New Mexico.

The other state funds appropriations to the status of women program of the commission on the status of women include fifty thousand dollars (\$50,000) from the women in transition fund to host the year of the New Mexico girl conference and associated expenses and fifty-three thousand seven hundred dollars (\$53,700) from the commission on the status of women conference fund to host the governor's

award for outstanding New Mexico women, the pioneer award, the trailblazer award and various conference booths.

Revenue collected from ticket sales in excess of expenses for conferences, awards programs, seminars and summits shall not revert.

Performance measures:

- (a) Outcome: Number of paid employment teamworks placements 300
  - (b) Outcome: Percent of teamworks participants employed at nine months  
after initial employment placement 70%
  - (c) Output: Number of temporary assistance for needy families clients  
served through the teamworks program 1,000
- Subtotal 2,151.1

## **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 413.3 413.3
- (b) Contractual services 203.2 203.2
- (c) Other 117.6 117.6
- (d) Other financing uses 153.5 153.5

Authorized FTE: 6.00 Permanent

The general fund appropriation to the public awareness program of the office of African American affairs in the personal services and employee benefits category includes eighty thousand dollars (\$80,000) to fund a full-time-equivalent position to operate the African American performing arts center and exhibit hall at the New Mexico state fair.

Subtotal 887.6

## **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 provide outreach, referral and education and oversee the New Mexico telecommunications relay network for deaf and hard-of-hearing citizens, government agencies, institutions, businesses and hearing individuals affiliated with those who have a hearing loss so they may become more aware of accessibility and services available and have equal access to telecommunications services.

Appropriations:

(a)	Personal services and			
	employee benefits		818.6	818.6
(b)	Contractual services	915.7	1,559.3	2,475.0
(c)	Other	355.1	355.1	
(d)	Other financing uses		455.0	455.0

Authorized FTE: 15.00 Permanent

The internal service funds/interagency transfers appropriation to the deaf and hard-of-hearing program of the commission for deaf and hard-of-hearing persons in the other financing uses category includes two hundred seventy-five thousand dollars (\$275,000) to transfer to the rehabilitation services program of the division of vocational rehabilitation to match with federal funds to provide deaf and hard-of-hearing rehabilitation services.

The internal service funds/interagency transfers appropriation to the deaf and hard-of-hearing program of the commission for deaf and hard-of-hearing persons in the other financing uses category includes one hundred eighty thousand dollars (\$180,000) to transfer to the new sign language licensure board program of the regulation and licensing department contingent on enactment of Senate Bill 817 or similar legislation of the first session of the forty-eighth legislature creating a sign language licensure board. If the enabling legislation includes an appropriation, the funds transferred from the commission for deaf and hard-of-hearing persons shall be reduced by the appropriation amount.

Performance measures:

(a) Output:	Number of information referrals, outreach and clients served	10,000
(b) Output:	Number of accessible technology equipment distributions	1,750
Subtotal		4,103.7

**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
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	employee benefits	193.2		193.2
(b)	Contractual services	47.4		47.4
(c)	Other	143.5	143.5	
Authorized FTE: 3.00 Permanent				
Subtotal				384.1

## COMMISSION FOR THE BLIND:

### (1) Blind services:

The purpose of the blind services program is to assist blind or visually impaired citizens of New Mexico to achieve economic and social equality so they can have independence based on their personal interests and abilities.

### Appropriations:

(a)	Personal services and			
	employee benefits	859.5	632.1	3,478.6 4,970.2
(b)	Contractual services	39.9		167.5 207.4
(c)	Other	1,070.0	2,177.9	3,247.9

Authorized FTE: 106.50 Permanent; 1.00 Term

The general fund appropriation to the blind services program of the commission for the blind in the other category includes fifty thousand dollars (\$50,000) for emergency eye-saving surgeries.

Any unexpended balances in the commission for the blind remaining at the end of fiscal year 2008 from appropriations made from the general fund shall not revert.

### Performance measures:

- (a) Output: Number of quality employment opportunities for blind or visually impaired consumers 45
- (b) Output: Number of blind or visually impaired consumers trained in the skills of blindness to enable them to live independently in their homes and communities 600
- (c) Outcome: Average employment wage for the blind or visually impaired person \$14.50

(d) Output: Number of employment opportunities provided for blind business entrepreneurs in different vending and food facilities through the business enterprise program 32

Subtotal 8,425.5

**INDIAN AFFAIRS DEPARTMENT:**

(1) Indian affairs:

The purpose of the Indian affairs program is to serve as the coordinating agency for intergovernmental and interagency programs concerning tribal governments and the state.

Appropriations:

(a)	Personal services and employee benefits	1,195.7	1,195.7
(b)	Contractual services	326.4	326.4
(c)	Other	1,307.2 500.0	1,807.2

Authorized FTE: 15.00 Permanent

The other state funds appropriation to the Indian affairs program of the Indian affairs department includes five hundred thousand dollars (\$500,000) from the tobacco settlement program fund for tobacco cessation and prevention programs for Native American communities throughout the state.

Performance measures:

- (a) Output: Percent of employee files that contain performance appraisal development plans completed by the employee's anniversary date 100%
- (b) Outcome: Number of audit findings 0
- (c) Output: Number of capital projects over fifty thousand dollars (\$50,000) completed and closed 40
- (d) Output: Number of capital outlay process training sessions conducted for tribes 6
- (e) Output: Percent of grants and services contracts with more than two

performance measures 100%

(f) Output: Number of capital outlay projects under fifty thousand  
dollars (\$50,000) completed and closed 40

Subtotal 3,329.3

## AGING AND LONG-TERM SERVICES DEPARTMENT:

(1) Consumer and elder rights:

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

Appropriations:

(a)	Personal services and employee benefits	588.0	915.7	1,503.7
(b)	Contractual services	22.1	66.0	88.1
(c)	Other	346.0	278.1	624.1

Authorized FTE: 11.00 Permanent; 11.00 Term

~~The general fund appropriation to the consumer and elder rights program of the aging and long-term services department in the other category includes two hundred thousand dollars (\$200,000) to create a guardianship alternatives program for persons with a disability, including Down syndrome.~~

Performance measures:

(a) Output: Number of ombudsman cases resolved 5,000

(b) Outcome: Number of individuals calling the resource center in need  
of two or more daily living services who receive  
information, referral and follow-up services 1,800

(c) Output: Number of persons accessing the aging and long-term  
services department's resource center 7,500

(2) Aging network:

The purpose of the aging network program is to provide supportive social and nutrition services for older individuals and persons with disabilities so they can remain independent and involved in their

communities and to provide training, education and work experience to older individuals so they can enter or re-enter the workforce and receive appropriate income and benefits.

Appropriations:

(a)	Personal services and				
	employee benefits	209.7	32.0		241.7
(b)	Contractual services		15.0		15.0
(c)	Other	26,427.3	43.0	325.6	7,727.9 34,523.8
(d)	Other financing uses	280.3			280.3

Authorized FTE: 4.00 Permanent

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.

The general fund appropriation to the aging network program of the aging and long-term services department in the other category includes two million one hundred thirty-one thousand three hundred dollars (\$2,131,300) to support and expand aging network services to local communities.

~~The general fund appropriation to the aging network program of the aging and long-term services department in the other category includes fifty thousand dollars (\$50,000) for senior citizen fitness programming at Manzano Mesa multigenerational center.~~

The other state funds appropriations to the aging network program of the aging and long-term services department include ninety thousand dollars (\$90,000) for the annual aging conference.

Any unexpended balance remaining at the end of fiscal year 2008 in other state funds from conference registration fees shall not revert.

Performance measures:

- (a) Outcome: Percent of individuals participating in the federal older worker program obtaining unsubsidized permanent employment 20.5%
- (b) Outcome: Percent of temporary assistance for needy families clients placed in meaningful employment 36%
- (c) Output: Number of adult daycare service hours provided 190,000
- (d) Output: Number of hours of respite care provided 160,000
- (e) Output: Number of congregate meals provided through the aging

network 1,650,000

(f) Output: Number of home-delivered meals provided through the aging

network 1,950,000

(3) Long-term services:

The purpose of the long-term services program is to administer home- and community-based long-term service programs that support individuals in the least restrictive environment possible.

Appropriations:

(a)	Personal services and				
	employee benefits	1,575.2	1,192.3	179.5	2,947.0
(b)	Contractual services	389.7	1,758.8	294.8	2,443.3
(c)	Other	343.0	155.6	123.2	621.8
(d)	Other financing uses	1,877.5			1,877.5

Authorized FTE: 40.00 Permanent; 11.00 Term

~~The general fund appropriation to the long-term services program of the aging and long-term services department in the contractual services category includes thirty thousand dollars (\$30,000) for a study of the program for all-inclusive care for the elderly model.~~

Performance measures:

(a) Outcome: Percent of disabled and elderly medicaid waiver clients who receive services within ninety days of eligibility determination 100%

(b) Outcome: Average number of months that individuals are on the disabled and elderly waiver registry prior to receiving an allocation for services 24

(c) Output: Number of individuals on the self-directed (mi via) waiver 300

(d) Output: Number of brain injury clients served through the self-directed waiver 100

(e) Output: Number of persons reintegrated from nursing homes into

home- and community-based medicaid services 121

(4) 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	8,318.0		8,318.0
(b)	Contractual services	801.5	2,941.5	3,743.0
(c)	Other	3,402.5	207.9	3,610.4

Authorized FTE: 174.00 Permanent

Performance measures:

- (a) Outcome: Percent of adults with repeat maltreatment 9%
- (b) Outcome: Percent of cases closed within ninety days of referral 70%
- (c) Output: Number of adults receiving adult protective services intervention 1,000

(5) 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	1,758.7	142.0	666.9	2,567.6
(b)	Contractual services	119.9		15.6	135.5
(c)	Other	223.4	32.4	59.4	315.2

Authorized FTE: 30.00 Permanent; 5.00 Term

Subtotal 63,856.0

**HUMAN SERVICES DEPARTMENT:**

(1) Medical assistance program:

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

Appropriations:

(a)	Personal services and employee benefits	4,751.0	346.5	4,902.6	10,000.1	
(b)	Contractual services	5,020.7	819.9	1,587.7	23,524.0	30,952.3
(c)	Other	605,802.7	61,735.6	107,291.0	1,969,992.5	2,744,821.8
(d)	Other financing uses	16,210.9			54,045.7	70,256.6

Authorized FTE: 149.00 Permanent; 9.00 Term

The general fund appropriations to the medical assistance program of the human services department include fifteen million six hundred thousand dollars (\$15,600,000) to provide direct services for the disabled and elderly program.

The other state funds appropriations to the medical assistance program of the human services department include five million fifteen thousand dollars (\$5,015,000) from the tobacco settlement program fund for breast and cervical cancer treatment and for expansion of a ~~nonentitlement~~ medicaid program for persons up to one hundred percent of the federal poverty level ~~in a program with benefits and eligibility requirements similar to the state coverage insurance program.~~

~~The general fund appropriation to the medical assistance program of the human services department in the other category includes six hundred thousand dollars (\$600,000) to provide a rate increase for disabled and elderly medicaid waiver providers.~~

~~The general fund appropriation to the medical assistance program of the human services department in the other category includes thirteen million dollars (\$13,000,000) to increase medicaid payments to providers. On or before September 15, 2007, the human services department shall submit a report to the department of finance and administration and the legislative finance committee on the allocation of the increased medicaid payments that includes the criteria used to determine the allocation.~~

The internal services/interagency transfers appropriations to the medical assistance program of the human services department include twenty-seven million six hundred thousand dollars (\$27,600,000) from the county-supported medicaid fund.

The general fund appropriations to the medical assistance program of the human services department include seven million nine hundred thousand dollars (\$7,900,000) for the expansion of a ~~nonentitlement~~ medicaid program for persons up to one hundred percent of the federal poverty level ~~in a program with benefits and eligibility requirements similar to the state coverage insurance program.~~

Performance measures:

- (a) Output:           Number of adults enrolled in state coverage insurance   10,000

- (b) Outcome: Percent of children enrolled in medicaid managed care who have a dental exam within the performance measure year 92%
- (c) Outcome: Number of children receiving services in the medicaid school-based services program 18,000
- (d) Outcome: Percent of children in medicaid managed care receiving early and periodic screening, diagnosis and treatment services 85%
- (e) Outcome: Percent of adolescents in medicaid managed care receiving well-care visits 60%
- (f) Outcome: Percent of age-appropriate women enrolled in medicaid managed care receiving breast cancer screens 75%
- (g) Outcome: Percent of age-appropriate women enrolled in medicaid managed care receiving cervical cancer screens 80%

(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	75,170.0	189,700.0	264,870.0
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Performance measures:

- (a) Outcome: Percent of readmissions to the same level of care or higher for individuals in managed care discharged from residential treatment centers 2%
- (b) Outcome: Percent of children and adolescents receiving medicaid behavioral health services who are successful in school 75%
- (c) Outcome: Number of unique individuals in medicaid served in substance abuse or mental health programs 52,000

(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.

Appropriations:

(a)	Personal services and				
	employee benefits	18,756.8	1,218.0	27,418.5	47,393.3
(b)	Contractual services	3,112.7	21,610.3	24,723.0	
(c)	Other	29,650.0	2,226.0	379,040.6	410,916.6
(d)	Other financing uses		37,723.3	37,723.3	

Authorized FTE: 1,025.00 Permanent; 84.00 Term

The federal funds appropriations to the income support program of the human services department include eleven million sixty-nine thousand five hundred dollars (\$11,069,500) 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 nine million five hundred fifty-four thousand eight hundred dollars (\$9,554,800) from the general fund and fifty-eight million four hundred one thousand six hundred dollars (\$58,401,600) from the federal temporary assistance for needy families block grant to provide cash assistance grants to participants as defined in the New Mexico Works Act, including clothing allowances, one-time diversion payments and state-funded payments to aliens.

The appropriations to the income support program of the human services department include one million dollars (\$1,000,000) from the federal temporary assistance for needy families block grant to provide wage subsidies for participants.

The federal funds appropriations to the income support program of the human services department include fourteen million nine hundred twenty thousand dollars (\$14,920,000) from the federal temporary assistance for needy families block grant for support services, including seven hundred twenty thousand dollars (\$720,000) for employment-related costs, eight hundred thousand dollars (\$800,000) for transportation services, six hundred thousand dollars (\$600,000) for a family-strengthening and fatherhood program, eight hundred thousand dollars (\$800,000) for a substance abuse program and twelve million dollars (\$12,000,000) for job training and placement.

The federal funds appropriations to the income support program of the human services department include thirty-seven million nine thousand three hundred dollars (\$37,009,300) from the temporary assistance for needy families block grant for the transfer of thirty-two million two hundred nineteen thousand three hundred dollars (\$32,219,300) to the children, youth and families department for childcare programs and two million six hundred thousand dollars (\$2,600,000) to the children, youth and families department for domestic violence programs, one million four hundred forty thousand dollars (\$1,440,000) to the commission on the status of women for the teamworks program and seven hundred fifty thousand dollars (\$750,000) to the aging and long-term services department for the gold mentor program.

The appropriations to the income support program of the human services department include from the general fund six million two hundred sixty-five thousand five hundred dollars (\$6,265,500) and from other state funds two million two hundred twenty-six thousand dollars (\$2,226,000) for general assistance.

The general fund appropriations to the income support program of the human services department include two hundred eighteen thousand dollars (\$218,000) for the Navajo sovereign temporary assistance for needy families program.

The general fund appropriations to the income support program of the human services department include thirty-two thousand dollars (\$32,000) for the Zuni sovereign temporary assistance for needy families program.

~~The human services department shall provide the department of finance and administration and the legislative finance committee quarterly reports on the expenditures of the federal temporary assistance for needy families block grant and the state maintenance-of-effort expenditures.~~

The general fund appropriation to the income support program of the human services department in the other category includes two hundred thousand dollars (\$200,000) for food bank programs.

~~The general fund appropriation to the income support program of the human services department in the other category includes six million dollars (\$6,000,000) for low income home energy assistance programs.~~

~~No less than fifteen percent or more than twenty-five percent of the total appropriations to the income support program of the human services department for the low income home energy assistance programs shall be expended for the weatherization program.~~

Performance measures:

(a) Outcome: Percent of temporary assistance for needy families

participants who retain a job three or more months 75%

(b) Outcome: Percent of temporary assistance for needy families clients

phased into the interagency state workforce consolidation

effort 100%

(c) Outcome: Percent of single-parent recipients of temporary assistance

for needy families meeting federally required work

participation requirements 90%

(d) Outcome: Percent of two-parent recipients of temporary assistance

for needy families meeting federally required work

participation requirements 90%

- (e) Outcome: Percent of food-stamp-eligible children participating in the program 95%
- (f) Outcome: Percent of expedited food stamp cases meeting federally required measure of timeliness within seven days 99%
- (g) Outcome: Number of New Mexico families receiving food stamps 102,000
- (h) Outcome: Number of temporary assistance for needy families clients who receive a job 10,000

(4) 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 4,362.3 2,722.9 11,355.9 18,441.1
- (b) Contractual services 1,774.9 1,107.9 4,620.2 7,503.0
- (c) Other 1,076.3 671.8 2,801.9 4,550.0

Authorized FTE: 399.00 Permanent

The general fund appropriation to the child support enforcement program of the human services department in the contractual services category includes one million dollars (\$1,000,000) for hearing officers at judicial district courts.

Performance measures:

- (a) Outcome: Percent of temporary assistance for needy families cases with court-ordered child support receiving collections 68%
- (b) Outcome: Amount of child support collected, in millions \$98
- (c) Outcome: Percent of current support owed that is collected 70%
- (d) Outcome: Percent of cases with support orders 70%
- (e) Outcome: Percent of children born out of wedlock with voluntary paternity acknowledgment 80%

(f) Outcome: Percent of children with court-ordered medical support covered by private health insurance 40%

(5) Program support:

The purpose of program support is to provide overall leadership, direction and administrative support to each agency program and to assist it in achieving its programmatic goals.

Appropriations:

(a)	Personal services and employee benefits	3,009.9	2,916.4	10,045.0	15,971.3
(b)	Contractual services	4,381.5	153.6	8,628.8	13,163.9
(c)	Other	3,474.9	1,012.5	8,147.9	12,635.3
(d)	Other financing uses	5.4	13.9	30.7	50.0

Authorized FTE: 247.00 Permanent

Performance measures:

(a) Outcome: Percent of federal financial reports completed accurately by due date 100%

(b) Outcome: Percent of invoices paid within thirty days of receipt of the invoice 100%

(c) Outcome: Percent of prior-year audit findings resolved in the current fiscal year 100%

(d) Outcome: Percent of office of inspector general claims over thirty-six months old 0%

(e) Outcome: Percent of reconciling items resolved within fifteen days of completion of reconciliation 100%

(f) Outcome: Percent of fund reconciliations completed thirty days after receipt of accurate monthly reports from the department of finance and administration, human services joint accounting

system and the state treasurer's office 100%

Subtotal 3,713,971.6

**LABOR DEPARTMENT:**

(1) Operations:

The purpose of the operations program is to provide workforce development and labor market services that meet the needs of job seekers and employers.

Appropriations:

- (a) Personal services and  
employee benefits 3,299.3 1,319.3 5,172.0 9,790.6
- (b) Contractual services 65.0 227.8 292.8
- (c) Other 667.5 2,017.2 2,684.7

Authorized FTE: 179.00 Permanent; 37.50 Term

Performance measures:

- (a) Outcome: Percent of status determinations for newly established employers made within ninety days of the quarter's end 90%
- (b) Explanatory: Number of persons served by the labor market services program 370,000

(2) Compliance:

The purpose of the compliance program is to monitor and evaluate compliance with labor law, including nonpayment of wages, unlawful discrimination, child labor, apprentices and wage rates for public works projects.

Appropriations:

- (a) Personal services and  
employee benefits 1,162.8 91.8 454.8 250.0 1,959.4
- (b) Contractual services 104.1 5.5 109.6
- (c) Other 704.7 231.2 935.9

Authorized FTE: 41.00 Permanent

The internal service funds/interagency transfers appropriations to the compliance program of the labor department include six hundred ninety-one thousand five hundred dollars (\$691,500) from fund balances in the workers' compensation administration fund.

Performance measures:

- (a) Output:       Number of targeted public works inspections completed   1,775
- (b) Outcome:    Percent of wage claims investigated and resolved within one  
                          hundred twenty days       96%
- (c) Efficiency:   Number of backlogged human rights commission hearings  
                          pending5
- (d) Efficiency:   Percent of discrimination cases settled through alternative  
                          dispute resolution         78%
- (e) Efficiency:   Average number of days for completion of discrimination  
                          investigations and determinations       140
- (f) Output:       Annual collections of apprentice contributions for public  
                          works projects   \$475,000

**(3) Unemployment administration:**

The purpose of the unemployment administration program is to provide payment of unemployment insurance benefits to qualified individuals who have lost their jobs through no fault of their own so that they may maintain economic stability and continue their livelihood while seeking employment and collect unemployment taxes from employers.

Appropriations:

- (a)    Personal services and  
          employee benefits       1,127.3                   6,918.6 8,045.9
- (b)    Contractual services                                   326.0   326.0
- (c)    Other    1,238.0 1,238.0

Authorized FTE: 179.00 Permanent; 5.00 Term

(4) Program support:

The purpose of the support program is to provide overall leadership, direction and administrative support to each agency program to achieve their programmatic goals.

Appropriations:

(a)	Personal services and employee benefits	428.3	900.7	140.8	5,111.9	6,581.7
(b)	Contractual services		247.0	38.6	1,401.8	1,687.4
(c)	Other	207.8	32.5	1,179.8	1,420.1	

Authorized FTE: 109.00 Permanent; 4.00 Term

The federal funds appropriations to the support program of the labor department, out of funds made available to New Mexico under the Job Creation and Worker Assistance Act of 2002 and Section 903 of the Social Security Act, as amended, include two million five hundred thousand dollars (\$2,500,000) for the administration of the unemployment program and the employment security program.

Performance measures:

(a) Outcome: Error rate for forecasting employment data +/-1%

Subtotal 35,072.1

**WORKERS' COMPENSATION ADMINISTRATION:**

(1) Workers' compensation administration:

The purpose of the workers' compensation administration program is to arbitrate and administer the workers' compensation system to maintain a balance between workers' prompt receipt of statutory benefits and reasonable costs for employers.

Appropriations:

(a)	Personal services and employee benefits		8,529.2		8,529.2
(b)	Contractual services		350.6		350.6
(c)	Other	1,325.8		1,325.8	
(d)	Other financing uses		691.5		691.5

Authorized FTE: 139.00 Permanent

Performance measures:

(a) Outcome: Percent of formal claims resolved without trial 90%

(b) Output: Number of reviews of employers to ensure the employer has

workers' compensation insurance 5,000

(c) Output: Number of first reports of injury processed 41,500

(d) Output: Number of serious injuries and illnesses caused by  
workplace conditions 4,850

(2) Uninsured employers' fund:

Appropriations:

(a)	Contractual services	100.0	100.0
(b)	Other	1,069.1	1,069.1
	Subtotal		12,066.2

## OFFICE OF WORKFORCE TRAINING AND DEVELOPMENT:

The purpose of the office of workforce training and development program is to administer, oversee and coordinate the provision of workforce development services that meet the needs of job seekers and employers and to provide resources to job training entities so that they may train and re-train individuals seeking work or improved employment opportunities.

Appropriations:

(a)	Personal services and employee benefits		2,554.0	2,554.0
(b)	Contractual services		259.1	259.1
(c)	Other	800.0	23,360.1	24,160.1
(d)	Other financing uses		7.0	7.0

Authorized FTE: 37.00 Permanent; 1.00 Temporary

Performance measures:

(a) Outcome: Number of program audit findings 0

(b) Outcome: Percent of adults receiving workforce development services  
who have entered employment within one quarter of leaving  
job training services 79%

(c) Outcome: Percent of youth receiving workforce development services

who have entered employment within one quarter of leaving  
the program 71%

(d) Outcome: Percent of dislocated workers receiving workforce  
development services who have entered employment within one  
quarter of leaving the program 87%

(e) Outcome: Total number of individuals in the adult, dislocated worker  
and youth programs receiving services through the federal  
Workforce Investment Act 8,800

Subtotal 26,980.2

## DIVISION OF VOCATIONAL REHABILITATION:

(1) Rehabilitation services:

The purpose of the rehabilitation services program is to promote opportunities for people with disabilities to become more independent and productive by empowering individuals with disabilities so they may maximize their employment, economic self-sufficiency, independence and inclusion and integration into society.

Appropriations:

(a)	Personal services and employee benefits	1,917.9	422.5	103.9	9,992.4	12,436.7
(b)	Contractual services	118.8	58.0	6.4	634.4	817.6
(c)	Other	2,695.6	251.2	164.7	14,390.6	17,502.1
(d)	Other financing uses				2.4	2.4

Authorized FTE: 190.00 Permanent; 26.00 Term

The internal services funds/interagency transfers appropriations to the rehabilitation services program of the division of vocational rehabilitation include two hundred seventy-five thousand dollars (\$275,000) to match with federal funds to support and enhance deaf and hard-of-hearing rehabilitation services.

The general fund appropriation to the rehabilitation services program of the division of vocational rehabilitation in the other category includes twenty-five thousand dollars (\$25,000) to coordinate with the office of African American affairs and the public education department to provide programs and services to help children with disabilities.

Any unexpended balance in the division of vocational rehabilitation remaining at the end of fiscal year 2008 from appropriations made from the general fund shall not revert.

Performance measures:

- (a) Outcome: Number of persons achieving suitable employment for a minimum of ninety days 1,750
- (b) Outcome: Percent of persons achieving suitable employment outcomes of all cases closed after receiving planned services 65%
- (c) Outcome: Percent of persons achieving suitable employment outcomes competitively employed or self-employed 95%
- (d) Outcome: Percent of persons with significant disabilities achieving suitable employment outcomes competitively employed or self-employed, earning at least minimum wage. 95%

(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) Other 1,301.2 250.0 1,551.2

Performance measures:

- (a) Output: Number of independent living plans developed 450
- (b) Output: Number of individuals served for independent living 650

(3) Disability determination:

The purpose of the disability determination program is to produce accurate and timely eligibility determinations to social security disability applicants so that they may receive benefits.

Appropriations:

- (a) Personal services and employee benefits 6,012.8 6,012.8
- (b) Contractual services 391.1 391.1

(c) Other 5,681.3 5,681.3

Authorized FTE: 97.00 Permanent

Performance measures:

(a) Efficiency: Number of days for completing an initial disability claim 75

(b) Quality: Percent of disability determinations completed accurately 98.5%

Subtotal 44,395.2

## GOVERNOR'S COMMISSION ON DISABILITY:

(1) Information and advocacy:

The purpose of the information and advocacy program is to provide needed information on disability case law analysis, building code comparisons, awareness of technologies, dispelling of stereotypes, training on the legislative process and population estimates to New Mexico individuals with disabilities and decision-makers, so they can improve the economic, health and social status of New Mexico individuals with disabilities.

Appropriations:

(a) Personal services and

employee benefits 589.3 589.3

(b) Contractual services 49.0 49.0

(c) Other 192.0 192.0

Authorized FTE: 9.00 Permanent

Performance measures:

(a) Output: Number of persons seeking technical assistance on disability issues 5,000

(b) Output: Number of architectural plans reviewed and sites inspected 230

(c) Output: Number of meetings held to develop collaborative partnerships with other state agencies and private

disability agencies to ensure that increased quality of

life issues for New Mexicans with disabilities are being

addressed 48

Subtotal 830.3

**DEVELOPMENTAL DISABILITIES PLANNING COUNCIL:**

(1) Consumer services:

The purpose of the consumer services program is to provide training, information and referral for individuals with disabilities and their family members so they can live more independent and self-directed lives.

Appropriations:

(a)	Personal services and			
	employee benefits	65.8		65.8
(b)	Contractual services	5.0		5.0
(c)	Other	164.4	50.0	214.4

Authorized FTE: 2.00 Permanent

Performance measures:

(a) Output: Number of client contacts to assist on health, housing, transportation, education, child care, medicaid services and other programs 3,500

(2) Developmental disabilities planning council:

The purpose of the developmental disabilities planning council program is to provide and produce opportunities to and for persons with disabilities so they may realize their dreams and potentials and become integrated members of society.

Appropriations:

(a)	Personal services and			
	employee benefits	290.8	128.7	419.5
(b)	Contractual services	21.1	141.1	162.2
(c)	Other	86.8	242.0	328.8

Authorized FTE: 6.50 Permanent

Performance measures:

(a) Output: Number of monitoring site visits conducted 36

(b) Output: Number of persons with developmental disabilities, their family members or guardians and others involved in services for persons with developmental disabilities served by the agency in the federally mandated areas 2,500

(3) Brain injury advisory council:

The purpose of the brain injury advisory council program is to provide guidance on the utilization and implementation of programs provided through the aging and long-term services department's brain injury services fund so they may align service delivery with the needs as identified by the brain injury community.

Appropriations:

(a)	Personal services and		
	employee benefits	58.6	58.6
(b)	Contractual services	27.6	27.6
(c)	Other	44.3	44.3

Authorized FTE: 1.00 Permanent

(4) Office of guardianship:

The purpose of the office of guardianship program is to enter into, monitor and enforce guardianship contracts for income-eligible persons and file, investigate and resolve complaints about guardianship services provided by contractors in order to maintain the dignity, safety and security of the indigent and incapacitated adults of the state.

Appropriations:

(a)	Personal services and		
	employee benefits	306.6	306.6
(b)	Contractual services	2,612.0	2,612.0
(c)	Other	88.5	88.5

Authorized FTE: 5.50 Permanent

Performance measures:

(a) Outcome: Percent of wards properly served with the least restrictive means, as evidenced by an annual technical compliance audit 75%

(b) Output: Number of wards served by corporate guardianship program 632

Subtotal 4,333.3

## **MINERS' HOSPITAL OF NEW MEXICO:**

### (1) Healthcare:

The purpose of the healthcare program is to provide quality acute care, long-term care, and related health services to the beneficiaries of the miners' trust fund of New Mexico and the people of the region so they can maintain optimal health and quality of life.

#### Appropriations:

(a)	Personal services and employee benefits	8,561.1	3,061.3	151.7	11,774.1
(b)	Contractual services	2,700.9	916.2	166.5	3,783.6
(c)	Other	4,553.4	1,944.7	51.8	6,549.9
(d)	Other financing uses		5,100.5		5,100.5

Authorized FTE: 211.50 Permanent; 13.50 Term

The internal services funds/interagency transfers appropriation to the healthcare program of the miners' hospital of New Mexico in the other financing uses category includes five million one hundred thousand five hundred dollars (\$5,100,500) from the miners' trust fund.

#### Performance measures:

(a) Outcome:	Percent of billed revenue collected	80%
(b) Output:	Number of patient days at the long-term care facility	11,000
(c) Output:	Number of specialty clinic visits	900
(d) Output:	Number of emergency room visits	5,250
(e) Output:	Number of patient days at the acute-care facility	6,900

Subtotal 27,208.1

## **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 in order to improve health status, reduce disparities and ensure timely access to quality, culturally competent health care.

Appropriations:

(a)	Personal services and					
	employee benefits	26,911.0	4,565.4	1,345.3	17,856.5	50,678.2
(b)	Contractual services	31,588.0	549.2	16,165.4	13,526.5	61,829.1
(c)	Other	19,802.7	17,880.3	6,843.7	38,898.5	83,425.2
(d)	Other financing uses	730.6	182.8	73.4	986.8	

Authorized FTE: 372.50 Permanent; 625.50 Term; 1.00 Temporary

The general fund appropriations to the public health program of the department of health in the contractual services category include two million eight hundred twenty-two thousand seven hundred eight dollars (\$2,822,708) for contracts related to the County Maternal and Child Health Plan Act, one million six hundred thousand dollars (\$1,600,000) for the hepatitis C extension for community health outcomes program at the university of New Mexico and four hundred thousand dollars (\$400,000) for a youth dance program to reduce obesity.

The other state funds appropriations to the public health program of the department of health include nine million one hundred fifteen thousand dollars (\$9,115,000) from the tobacco settlement program fund for smoking cessation and prevention programs, one million dollars (\$1,000,000) from the tobacco settlement program fund for diabetes prevention and control services, four hundred seventy thousand dollars (\$470,000) from the tobacco settlement program fund for HIV/AIDS prevention, services and medicine and two hundred thousand dollars (\$200,000) for breast and cervical cancer screening.

The general fund appropriations to the public health program of the department of health in the other category include fifty thousand dollars (\$50,000) for a Native American peer-to-peer suicide prevention program, one hundred thousand dollars (\$100,000) for a teen pregnancy prevention pilot project, ~~one hundred thousand dollars (\$100,000) for a healthy family initiative program in Socorro county,~~ one hundred twenty-five thousand dollars (\$125,000) for suicide prevention and one hundred twenty-five thousand dollars (\$125,000) for a statewide teen pregnancy prevention program.

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 health care services related to the Rural Primary Health Care Act remaining at the end of fiscal year 2008 shall not revert.

Performance measures:

- (a) Output: Percent of preschoolers fully immunized 95%
- (b) Outcome: Youth suicide rate among fifteen to nineteen year olds per  
one hundred thousand 3
- (c) Outcome: Percent of youth reporting they have attempted suicide 5%
- (d) Outcome: Tobacco use by adults 20.4%

- (e) Output: Number of visits to school-based health centers 46,000
- (f) Outcome: National ranking of New Mexico's teen birth rate per one thousand females age fifteen to seventeen 30th
- (g) Explanatory: Per capita consumption of tobacco products 33.6 packs

(2) Epidemiology and response:

The purpose of the epidemiology and response program is to maintain and enhance a statewide system of population-based surveillance, vital records and health statistics, emergency medical services, bioterrorism and health emergency management and injury prevention so information on the health of New Mexicans is readily available to identify and respond to threats to the health of the public, to ensure safe environments for New Mexicans, to ensure the provision of emergency medical services and to provide vital records to the public.

Appropriations:

- (a) Personal services and employee benefits 4,122.7 154.2 758.0 6,472.3 11,507.2
- (b) Contractual services 1,193.1 183.4 6,184.0 7,560.5
- (c) Other 5,223.9 268.5 2,247.9 7,740.3

Authorized FTE: 54.00 Permanent; 139.00 Term

The general fund appropriation to the epidemiology and response program of the department of health in the other category includes an additional four hundred thousand dollars (\$400,000) for regional emergency medical services programs.

Performance measures:

- (a) Output: Number of designated trauma centers in the state 9
- (b) Output: Number of pandemic influenza plan exercises statewide 70

(3) Laboratory services:

The purpose of the laboratory services program is to provide laboratory analysis and science policy for tax-supported public health, environmental and toxicology programs in the state of New Mexico in order to provide timely identification of threats to the health of New Mexicans.

Appropriations:

- (a) Personal services and employee benefits 4,187.4 1,756.0 810.5 6,753.9

(b)	Contractual services	304.0	120.8	424.8
(c)	Other	1,513.7	810.3	1,850.8
				4,174.8

Authorized FTE: 79.00 Permanent; 53.00 Term

Performance measures:

(a) Efficiency: Percent of blood alcohol tests from driving-while-intoxicated cases analyzed and reported within seven business days 85%

(b) Output: Number of laboratory tests performed each year 340,000

(4) Behavioral health services:

The purpose of the behavioral health services program is to lead and oversee the provision of an integrated and comprehensive behavioral health prevention and treatment system so that the program fosters recovery and supports the health and resilience of all New Mexicans.

Appropriations:

(a)	Personal services and employee benefits	1,498.1	1,123.1	2,621.2
(b)	Contractual services	40,969.0	42.0	18,895.3
				59,906.3
(c)	Other	389.7	1,121.2	1,510.9
(d)	Other financing uses	1,143.5	528.6	1,672.1

Authorized FTE: 31.00 Permanent; 13.00 Term

The general fund appropriation to the behavioral health services program of the department of health in the contractual services category includes three hundred thousand dollars (\$300,000) for veterans behavioral health services and five hundred thousand dollars (\$500,000) to expand statewide mental health services.

Performance measures:

(a) Outcome: Percent of people receiving substance abuse treatment who demonstrate improvement on three or more domains on the addiction severity index 75%

(b) Outcome: Suicide rate among adults twenty years and older per one

hundred thousand 20.5

(5) Facilities management:

The purpose of the facilities management program is to provide oversight for department of health facilities that provide health and behavioral health care 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	29,440.8	26,726.7	26,604.7	2,021.6 84,793.8
(b)	Contractual services	10,547.0	9,574.7	9,531.0	724.2 30,376.9
(c)	Other	6,172.1	5,603.1	5,577.6	423.9 17,776.7

Authorized FTE: 1,684.00 Permanent; 234.50 Term; 13.00 Temporary

Performance measures:

- (a) Outcome: Number of substantiated cases of abuse, neglect and exploitation per one hundred residents in agency-operated long-term care programs confirmed by the division of health improvement 0

(6) Developmental disabilities support:

The purpose of the developmental disabilities support program is to administer a statewide system of community-based services and supports to improve the quality of life and increase the independence and interdependence of individuals with developmental disabilities and children with or at risk for developmental delay or disability and their families.

Appropriations:

(a)	Personal services and				
	employee benefits	4,855.8	17,608.2	444.7	22,908.7
(b)	Contractual services	32,112.3	2,234.1	2,043.3	36,389.7
(c)	Other	3,160.1	428.0	2,393.7	57.2 6,039.0
(d)	Other financing uses	80,014.9			80,014.9

Authorized FTE: 164.00 Permanent; 322.00 Term; 16.00 Temporary

The general fund appropriation to the developmental disabilities support program of the department of health in the other financing uses category includes eighty million fourteen thousand nine hundred dollars (\$80,014,900) for medicaid waiver services in local communities, including one million nine hundred ninety-two thousand six hundred dollars (\$1,992,600) for medically fragile services and seventy-eight million twenty-two thousand three hundred dollars (\$78,022,300) for services to the developmentally disabled.

The general fund appropriation to the developmental disabilities support program of the department of health in the contractual services category includes two million dollars (\$2,000,000) for autism services, two million four hundred thousand dollars (\$2,400,000) to provide rate increases for developmental disabilities and medically fragile medicaid waiver providers and one hundred fifty thousand dollars (\$150,000) for developmental disabilities oral health programs.

Performance measures:

- (a) Efficiency: Percent of developmental disabilities waiver applicants determined to be both income eligible and clinically eligible within ninety days of allocation 98%
- (b) Efficiency: Percent of developmental disabilities waiver applicants who have a service plan in place within ninety days of income and clinical eligibility determination 100%
- (c) Outcome: Percent of adults receiving developmental disabilities day services engaged in community-integrated employment 60%
- (d) Outcome: Percent of families who report an increased capacity to address their child's developmental needs as an outcome of receiving early intervention services 99.9%+
- (e) Outcome: Percent of infants and toddlers in the family infant toddler program who make progress in their development 97%

(7) Health certification, licensing and oversight:

The purpose of the health certification, licensing and oversight program is to provide health facility licensing and certification surveys, community-based oversight and contract compliance surveys and a statewide incident management system so that people in New Mexico have access to quality health care and that vulnerable populations are safe from abuse, neglect and exploitation.

Appropriations:

- (a) Personal services and

	employee benefits	4,078.1	809.8	4,022.2	1,574.4	10,484.5
(b)	Contractual services	537.6	290.0	18.8		846.4
(c)	Other	607.9	639.9	708.9	275.8	2,232.5

Authorized FTE: 57.00 Permanent; 123.00 Term

The general fund appropriation to the health certification, licensing and oversight program of the department of health in the contractual services category includes five hundred thousand dollars (\$500,000) for receivership services.

Performance measures:

- (a) Efficiency: Number of community-based program incident investigations completed 4,400
- (b) Output: Number of regulatory compliance surveys conducted by the division of health improvement for licensed facilities 450
- (c) Outcome: Number of developmental disabilities providers receiving an unannounced survey 92
- (d) Output: Number of regulatory compliance surveys conducted by the division of health improvement for community-based programs 213

(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 that the department achieves a high level of accountability and excellence in services provided to the people of New Mexico.

Appropriations:

(a)	Personal services and					
	employee benefits	6,358.0	109.3	381.7	2,830.8	9,679.8
(b)	Contractual services	811.0	21.2	74.1	973.3	1,879.6
(c)	Other	4,590.2	71.0	247.9	1,364.1	6,273.2

Authorized FTE: 134.00 Permanent; 20.00 Term; 1.00 Temporary

The general fund appropriation to the administration program of the department of health in the other category includes four million five hundred twenty-seven thousand two hundred dollars (\$4,527,200) to



(c) Efficiency: Percent of drinking water chemical samplings completed within the regulatory timeframe 95%

(d) Output: Percent of annual permitted-commercial-food-establishment inspections completed 100%

(e) Output: Percent of license inspections and radiation-producing-machine inspections completed within nuclear regulatory commission and food and drug administration guidelines 100%

(2) Water quality:

The purpose of the water quality program is to protect the quality of New Mexico's ground- and surface-water resources to ensure clean and safe water supplies are available now and in the future to support domestic, agricultural, economic and recreational activities and provide healthy habitat for fish, plants and wildlife and to ensure that hazardous waste generation, storage, treatment and disposal is conducted in a manner protective of public health and environmental quality.

Appropriations:

(a)	Personal services and employee benefits	3,137.2	3,522.9	6,305.8	12,965.9
(b)	Contractual services	124.5	795.3	4,182.2	5,102.0
(c)	Other	258.7	776.4	910.1	1,945.2

Authorized FTE: 45.00 Permanent; 156.50 Term

Performance measures:

(a) Outcome: Percent of permitted facilities where monitoring results do not exceed standards 75%

(b) Output: Number of inspections of permitted hazardous waste facilities and hazardous waste generators, handlers and transporters 150

(c) Efficiency: Percent of department of energy generator site audits for the waste isolation pilot project on which agency action

will be taken within forty-five days 80%

(d) Explanatory: Stream miles and acreage of lakes monitored annually to

determine if surface-water quality is impaired 1,500/10K

(e) Output: Number of impaired stream miles currently being addressed

through watershed restoration plans to improve

surface-water quality 220

(3) Environmental protection:

The purpose of the environmental protection program is to ensure New Mexicans breathe healthy air, prevent releases of petroleum products into the environment, ensure solid waste is handled and disposed without harming natural resources and ensure every employee safe and healthful working conditions.

Appropriations:

(a) Personal services and

employee benefits	2,349.3	7,669.8	2,642.0	12,661.1
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(b) Contractual services	79.0	345.3	111.6	535.9
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(c) Other	418.5	1,655.5	601.2	2,675.2
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Authorized FTE: 70.00 Permanent; 128.00 Term

Performance measures:

(a) Outcome: Percent of serious worker health and safety violations

corrected within the timeframes designated on issued

citations from the consultation and compliance sections 95%

(b) Outcome: Percent of landfills meeting groundwater monitoring

requirements 93%

(c) Outcome: Percent of facilities taking corrective action to mitigate

air quality violations discovered as a result of inspections 95%

(d) Outcome: Improvement in visibility at all monitored locations in New

Mexico based on a rolling average of the previous four

quarters 194 KM

(e) Outcome: Percent of underground storage tank facilities in significant operational compliance with release prevention and release detection regulations of the petroleum storage tank regulations 90%

(f) Outcome: Percent of inspected solid waste facilities in substantial compliance with the solid waste management regulations 75%

(4) Program support:

The purpose of program support is to provide overall leadership, administrative, legal and information management support to allow programs to operate in the most knowledgeable, efficient and cost-effective manner so the public can receive the information it needs to hold the department accountable.

Appropriations:

(a)	Personal services and employee benefits	2,845.0	2,839.6	2,045.4	7,730.0
(b)	Contractual services	164.7	130.2	307.8	602.7
(c)	Other	322.0	337.8	573.8	1,233.6

Authorized FTE: 64.00 Permanent; 42.00 Term

Performance measures:

(a) Explanatory: Total number of new projects funded and dollar amount of new loans made from the clean water state revolving fund program and the rural infrastructure revolving loan program TBD

(b) Output: Date by which an annual project status report for water, wastewater and solid waste facility construction projects will be provided to the legislative finance committee members and analyst and to the department of finance and administration secretary and analyst 8/15/08

(c) Quality: Percent customer satisfaction with the construction bureau's technical assistance and engineering services

provided in conjunction with federal and state loan and grant projects for construction of water, wastewater and solid waste projects, based on written customer surveys 100%

(d) Output: Percent of enforcement actions brought within one year of inspection or documentation of violation 95%

(e) Outcome: Number of accounting function standards as defined by the department of finance and administration, office of the state controller, achieved at the end of the fiscal year 4

(5) Special revenue funds:

Appropriations:

(a)	Contractual services	3,000.0	3,000.0
(b)	Other	9,950.0	9,950.0
(c)	Other financing uses	24,498.4	24,498.4
	Subtotal	100,469.7	

**OFFICE OF THE NATURAL RESOURCES TRUSTEE:**

(1) Natural resource damage assessment and restoration:

The purpose of the natural resources trustee program is to restore or replace natural resources or resource services injured or lost due to releases of hazardous substances or oil into the environment.

Appropriations:

(a)	Personal services and employee benefits	321.1	321.1
(b)	Contractual services	24.6	24.6
(c)	Other	54.8	54.8

Authorized FTE: 3.80 Permanent

Subtotal	400.5
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**NEW MEXICO HEALTH POLICY COMMISSION:**

(1) Health information and policy analysis:

The purpose of the health information and policy analysis program is to provide relevant and current health-related data, information and comprehensive analysis to consumers, state health agencies, the legislature and the private health sector so they can obtain or provide improved healthcare access in New Mexico.

Appropriations:

(a)	Personal services and			
	employee benefits	916.4		916.4
(b)	Contractual services	66.0		66.0
(c)	Other	307.1	1.1	308.2

Authorized FTE: 15.00 Permanent

Performance measures:

(a) Output:	Number of health-related bills analyzed during the		
	legislative session	150	
	Subtotal		1,290.6

**VETERANS' SERVICE DEPARTMENT:**

(1) Veterans' services:

The purpose of the veterans' services program is to carry out the mandates of the 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	2,054.8		2,054.8
(b)	Contractual services	716.8	468.1	1,184.9
(c)	Other	294.6	103.3	397.9

Authorized FTE: 38.00 Permanent; 2.00 Term

The general fund appropriation to the veterans' services program of the veterans' service department in the personal services and employee benefits category includes two hundred fifty thousand dollars (\$250,000) for five field officers.

Performance measures:

- (a) Output: Number of veterans served by veterans' services department  
field officers 50,000
  - (b) Output: Number of fiduciary transactions from trustee banks and  
veterans' services department to meet clients' living  
expenses 75,000
  - (c) Output: Number of homeless veterans provided overnight shelter for  
a period of two weeks or more 500
  - (d) Output: Compensation received by New Mexico veterans as a result of  
the department's contracts with veterans' organizations, in  
millions \$75
  - (e) Output: Number of property tax waiver and exemption certificates  
issued to New Mexico veterans 11,000
  - (f) Output: Percent of New Mexico veterans impacted by department  
programs 30%
- Subtotal 3,637.6

**CHILDREN, YOUTH AND FAMILIES DEPARTMENT:**

(1) Juvenile justice:

The purpose of the juvenile justice program is to provide rehabilitative services to youth committed to the department including but not limited to medical, educational, mental health and other services, early intervention and prevention, detention and screening and probation and parole supervision aimed at keeping youth from committing additional delinquent acts.

Appropriations:

- (a) Personal services and  
employee benefits 40,331.9 1,060.7 41,392.6
- (b) Contractual services 13,998.9 13,998.9
- (c) Other 6,016.5 1,654.5 203.0 7,874.0

Authorized FTE: 780.30 Permanent

~~The general fund appropriation to the juvenile justice program of the children, youth and families department in the personal services and employee benefits category includes sixty thousand dollars (\$60,000) for one full-time equivalent position in McKinley county.~~

The general fund appropriation to the juvenile justice program of the children, youth and families department in the contractual services category includes a total of fifty thousand dollars (\$50,000) for the fresh eyes program.

The general fund appropriation to the juvenile justice program of the children, youth and families department in the other category includes three hundred thousand dollars (\$300,000) for global positioning system juvenile justice monitoring.

Performance measures:

- (a) Output: Percent of clients re-adjudicated within two years of previous adjudication 5.8%
- (b) Output: Percent of possible education credits earned by clients in juvenile justice division facilities 75%
- (c) Outcome: Percent of clients receiving functional family therapy and multi-systemic therapy who have not committed a subsequent juvenile offense within two years of discharge from service 86.5%
- (d) Outcome: Percent of clients recommitted to a children, youth and families department facility within two years of discharge from facilities 11.5%

(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	35,360.6	10,953.9	46,314.5		
(b)	Contractual services	1,636.7	7,456.2	9,092.9		
(c)	Other	21,160.6	1,602.4	2,458.9	23,367.3	48,589.2

(d) Other financing uses 240.0 240.0

Authorized FTE: 853.50 Permanent

Performance measures:

(a) Output: Percent of children who are the subjects of substantiated maltreatment while in foster care .57%

(b) Outcome: Percent of children adopted within twenty-four months from entry into foster care 34%

(c) Outcome: Percent of children who are the subjects of substantiated maltreatment within six months of a prior determination of substantiated maltreatment 7%

(d) Outcome: Percent of children reunified with their natural families in less than twelve months of entry into care 85%

(3) Family services:

The purpose of the family services program is to provide behavioral health, quality child care and nutrition services to children so they can enhance physical, social and emotional growth and development and can access quality care.

Appropriations:

(a)	Personal services and				
	employee benefits	7,310.9	282.4	3,366.6	10,959.9
(b)	Contractual services	35,608.5	235.0	2,750.0	7,040.5 45,634.0
(c)	Other	17,406.1	890.9	33,054.1	74,492.0 125,843.1
(d)	Other financing uses	84.9		435.0	519.9

Authorized FTE: 150.30 Permanent; 64.00 Term

The general fund appropriation to the family services program of the children, youth and families department in the contractual services category includes a total of four hundred fifty thousand dollars (\$450,000) for the americorp/vista program, a total of two million dollars (\$2,000,000) for the juvenile continuum grant fund for the juvenile justice continuum, one hundred fifty thousand dollars (\$150,000) to expand statewide domestic violence programs, and two hundred thousand dollars (\$200,000) for the child care teacher education and compensation helps program.

The general fund appropriation to the family services program of the children, youth and families department in the other category includes two million five hundred thousand dollars (\$2,500,000) for increasing the child care eligibility up to one hundred sixty-five percent of the federal poverty level and two million dollars (\$2,000,000) for child care provider rate increases to include amounts related to a minimum wage increase.

In the event a waiting list for child care is created, children from birth through three years of age shall be given first priority to services. ~~At least two hundred fifty thousand dollars (\$250,000) of the general fund appropriation for home visiting shall be used to match federal funds in the medicaid program.~~

Performance measures:

- (a) Outcome: Percent of children receiving behavioral health services who experience an improved level of functioning at discharge 50%
- (b) Outcome: Percent of adult victims receiving domestic violence services who show improved client competencies in social, living, coping and thinking skills 65%
- (c) Outcome: Percent of adult victims receiving domestic violence services living in a safer, more stable environment 85%
- (d) Outcome: Percent of family providers participating in the child- and adult-care food program 90.5%
- (e) Outcome: Percent of children receiving state subsidy in stars/aim-high programs level two through five or with national accreditation 30%

(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 6,721.1 817.6 3,230.8 10,769.5
- (b) Contractual services 1,149.6 148.3 556.3 1,854.2

(c) Other 1,688.5 224.0 1,012.3 2,924.8

Authorized FTE: 162.00 Permanent

Performance measures:

(a) Output: Turnover rate for child welfare caseworkers 15%

(b) Output: Turnover rate for juvenile correctional officers 11.9%

Subtotal 366,007.5

**TOTAL HEALTH, HOSPITALS AND HUMAN** 1,379,183.2 222,481.8 293,786.4  
3,134,835.8 5,030,287.2

## SERVICES

## G. PUBLIC SAFETY

### DEPARTMENT OF MILITARY AFFAIRS:

(1) National guard support:

The purpose of the national guard support program is to provide administrative, fiscal, personnel, facility construction and maintenance support to the New Mexico national guard military and civilian activities so they can maintain a high degree of readiness to respond to state and federal missions.

Appropriations:

(a) Personal services and

employee benefits 2,348.2 132.7 3,343.7 5,824.6

(b) Contractual services 21.7 1,804.0 1,825.7

(c) Other 3,542.3 74.5 4,134.0 7,750.8

Authorized FTE: 31.00 Permanent; 80.00 Term

~~The general fund appropriation to the national guard support program of the department of military affairs in the personal services and employee benefits category includes funding for the adjutant general position not to exceed range thirty-four in the governor's exempt plan and funding for the deputy adjutant general position not to exceed range thirty-two in the governor's exempt plan.~~

The general fund appropriation to the national guard support program of the department of military affairs in the other category includes seventy-five thousand dollars (\$75,000) for expenditures for the employee support of guard and reserve program.

The general fund appropriation to the national guard support program of the department of military affairs in the other category includes one million two hundred twenty-eight thousand dollars (\$1,228,000) for the service members' life insurance reimbursement fund.

Any unexpended balance in the service members' life insurance reimbursement fund remaining at the end of fiscal year 2008 shall not revert to the general fund.

Performance measures:

(a) Outcome: Rate of attrition of the New Mexico army national guard 14%

(b) Outcome: Percent of strength of the New Mexico national guard 88%

(2) Crisis response:

The purpose of the crisis response program is to provide resources and a highly trained and experienced force to protect the public and improve the quality of life for New Mexicans.

Appropriations:

(a)	Personal services and			
	employee benefits	880.2	1,249.8	2,130.0
(b)	Contractual services	237.9	356.8	594.7
(c)	Other	118.8	73.4	192.2

Authorized FTE: 1.00 Permanent; 47.00 Term

Performance measures:

(a) Outcome: Percent of cadets successfully graduating from the youth

challenge academy 100%

Subtotal 18,318.0

**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	309.6		309.6
(b)	Contractual services	5.6		5.6
(c)	Other	153.7		153.7

Authorized FTE: 6.00 Permanent

Performance measures:

(a) Efficiency: Percent of revocation hearings held within thirty days of a parolee's return to the corrections department 97%

(b) Efficiency: Percent of initial parole hearings held a minimum of thirty days prior to the inmate's projected release date 92%

Subtotal 468.9

### JUVENILE PAROLE BOARD:

(1) Juvenile parole:

The purpose of the juvenile parole program is to provide fair and impartial hearings through reviews to incarcerated youth so they can mainstream into society as law-abiding citizens.

Appropriations:

(a) Personal services and			
employee benefits	356.5		356.5
(b) Contractual services	5.6		5.6
(c) Other	55.0	55.0	

Authorized FTE: 6.00 Permanent

Subtotal 417.1

### 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	83,958.8	5,916.9 33.0	89,908.7

(b)	Contractual services	40,699.4		40,699.4
(c)	Other	97,124.7	5,396.4 117.0	102,638.1

Authorized FTE: 1,794.00 Permanent; 27.00 Term

The general fund appropriations to the inmate management and control program of the corrections department include thirty-nine million six hundred eighty-one thousand seven hundred dollars (\$39,681,700) for medical services, a comprehensive medical contract and other health-related expenses.

~~The general fund appropriation to the inmate management and control program of the corrections department in the other category includes sixty-one thousand seven hundred dollars (\$61,700) to provide a salary increase for correctional officers at the New Mexico women's correctional facility in Grants, New Mexico.~~

~~The general fund appropriation to the inmate management and control program of the corrections department in the other category includes one hundred eighty-eight thousand three hundred dollars (\$188,300) to provide salary increases for correctional officers at the Guadalupe county correctional facility and the Lea county correctional facility.~~

Performance measures:

- (a) Outcome: Percent turnover of correctional officers 13%
- (b) Outcome: Percent of women offenders successfully released in accordance with their scheduled release dates 95%
- (c) Output: Percent of inmates testing positive or refusing the random monthly drug test <=2%
- (d) Output: Graduation rate of correctional officer cadets from the corrections department training academy 84%
- (e) Output: Number of cadets entering corrections department training academy 215
- (f) Output: Number of serious inmate-to-inmate assaults in private and public facilities 24
- (g) Output: Number of serious inmate-to-staff assaults in private and public facilities 7
- (h) Output: Average length of sentence served by adult sex offenders,

in days 1,423

(i) Efficiency: Daily cost per inmate, in dollars \$88.27

(2) Inmate programming:

The purpose of the inmate programming program is to provide motivated inmates the opportunity to participate in appropriate programs and services so they have less propensity toward violence while incarcerated and the opportunity to acquire living skills and links to community support systems that can assist them on release.

Appropriations:

(a)	Personal services and				
	employee benefits	7,789.0	142.0		7,931.0
(b)	Contractual services	712.9		119.8	832.7
(c)	Other	499.2	5.5	71.0	575.7

Authorized FTE: 143.50 Permanent; 2.00 Term

Performance measures:

- (a) Outcome: Recidivism rate of the success for offenders after release program by thirty-six months 40%
- (b) Output: Number of inmates who earn a general equivalency diploma 190
- (c) Output: Percent of inmates entering the reception diagnostic center who are offered addictions screening 95%
- (d) Output: Number of inmates enrolled in adult basic education 2,850
- (e) Output: Percent of released inmates who were enrolled in the success for offenders after release program who are now gainfully employed 75%

(3) Corrections industries:

The purpose of the corrections industries program is to provide training and work experience opportunities for inmates to instill a quality work ethic and to prepare them to perform effectively in an employment position and to reduce idle time of inmates while in prison.

Appropriations:

(a)	Personal services and		
	employee benefits	2,390.0	2,390.0
(b)	Contractual services	20.6	20.6
(c)	Other	4,079.2	4,079.2
(d)	Other financing uses	100.0	100.0

Authorized FTE: 38.00 Permanent; 4.00 Term

Performance measures:

- (a) Outcome: Profit and loss ratio break even
- (b) Outcome: Percent of eligible inmates employed 11%

(4) 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	16,284.7	1,479.1
			17,763.8
(b)	Contractual services	92.3	92.3
(c)	Other	11,782.3	11,782.3

Authorized FTE: 381.00 Permanent

No more than one million dollars (\$1,000,000) of general fund appropriations to the community offender management program of the corrections department shall be used for detention costs for parole violators.

The general fund appropriations to the community offender management program of the corrections department include three hundred fifty thousand dollars (\$350,000) for the residential evaluation and treatment center at Fort Stanton as a sentencing alternative to incarceration for selected nonviolent prisoners and parole violators.

The general fund appropriations to the community offender management program of the corrections department include four hundred fifty-two thousand five hundred dollars (\$452,500) to continue treatment services for drug court.

The general fund appropriations to the community offender management program of the corrections department include one million four hundred fifty thousand dollars (\$1,450,000) to provide residential treatment, mental health, substance abuse, parenting and reintegration services for women under the supervision of the probation and parole division and their children as appropriate.

The general fund appropriation to the community offender management program of the corrections department in the other category includes fifty thousand dollars (\$50,000) for global positioning satellite ankle bracelets.

Performance measures:

- (a) Outcome: Percent turnover of probation and parole officers 15%
- (b) Outcome: Percent of out-of-office contacts per month with offenders  
on high and extreme supervision on standard caseloads 90%
- (c) Output: Average number of parolees in intensive supervision 17
- (d) Output: Number of absconders apprehended 2,557
- (e) Quality: Average standard caseload per probation and parole officer 92
- (f) Quality: Average specialized program caseload per probation and  
parole officer 30
- (g) Quality: Average intensive supervision program caseload per  
probation and parole officer 20

(5) Community corrections/vendor-run:

The purpose of the community corrections/vendor-run program is to provide selected offenders on probation and parole with residential and nonresidential service settings and to provide intermediate sanctions and post-incarceration support services as a cost-effective alternative to incarceration without undue risk to the public.

Appropriations:

- (a) Personal services and  
employee benefits 729.2 50.0 779.2
- (b) Contractual services 57.3 57.3
- (c) Other 3,041.9 545.7 3,587.6

Authorized FTE: 17.00 Permanent

The appropriations for the community corrections/vendor-run program of the corrections department are appropriated to the community corrections grant fund.

Performance measures:

(a) Output: Number of successful completions per year from the male residential treatment center at Fort Stanton 147

(b) Output: Number of terminations per year from the male residential treatment center at Fort Stanton 10

(c) Output: Number of transfers or other noncompletions per year from the male residential treatment center at Fort Stanton 5

(6) Program support:

The purpose of program support is to provide quality administrative support and oversight to the department operating units to ensure a clean audit, effective budget, personnel management and cost-effective management information system services.

Appropriations:

(a)	Personal services and			
	employee benefits	5,913.8	50.0	232.0
				6,195.8
(b)	Contractual services	415.7		415.7
(c)	Other	1,320.4		1,320.4
(d)	Other financing uses		1,031.4	1,031.4

Authorized FTE: 96.00 Permanent

The other state funds appropriation to program support of the corrections department in the other financing uses category includes one million thirty-one thousand four hundred dollars (\$1,031,400) for the corrections department building fund.

Performance measures:

(a) Outcome: Percent of prisoners reincarcerated within twelve months of being released from the New Mexico corrections department prison system into community supervision or discharged 30%

(b) Outcome: Percent of prisoners reincarcerated within twenty-four

months of being released from the New Mexico corrections department prison system into community supervision or discharged 38%

(c) Outcome: Percent of prisoners reincarcerated within thirty-six months of being released from the New Mexico corrections department prison system into community supervision or discharged 47%

(d) Outcome: Percent of sex offenders reincarcerated within twelve months of being released from the New Mexico corrections department prison system into community supervision or discharged 21%

(e) Outcome: Percent of sex offenders reincarcerated within twenty-four months of being released from the New Mexico corrections department prison system into community supervision or discharged 33%

(f) Outcome: Percent of sex offenders reincarcerated within thirty-six months of being released from the New Mexico corrections department prison system into community supervision or discharged 28%

Subtotal 292,201.2

## **CRIME VICTIMS REPARATION COMMISSION:**

(1) Victim compensation:

The purpose of the victim compensation program is to provide financial assistance and information to victims of violent crime in New Mexico so they can receive services to restore their lives.

Appropriations:

(a) Personal services and

	employee benefits	772.1		772.1
(b)	Contractual services	205.7		205.7
(c)	Other	1,137.1	450.0	1,587.1

Authorized FTE: 15.00 Permanent

Performance measures:

(a) Efficiency: Average number of days to process applications <120

(2) Federal grant administration:

The purpose of the federal grant administration program is to provide funding and training to nonprofit victim providers and public agencies so they can provide services to victims of crime.

Appropriations:

(a)	Personal services and			
	employee benefits		238.6	238.6
(b)	Contractual services		28.0	28.0
(c)	Other	3,803.0	3,803.0	
(d)	Other financing uses		965.0	965.0

Authorized FTE: 4.00 Term

Subtotal 7,599.5

## DEPARTMENT OF PUBLIC SAFETY:

(1) Law enforcement:

The purpose of the law enforcement program is to provide the highest quality of law enforcement services to the public and ensure a safer state.

Appropriations:

(a)	Personal services and				
	employee benefits	58,916.4	1,210.0	7,661.1	2,993.4
(b)	Contractual services	1,450.1	146.4	7.5	123.6
(c)	Other	13,685.8	1,991.4	1,331.6	1,337.0
					18,345.8



commissioned personnel 90%

(2) Emergency management and homeland security support:

The purpose of the emergency management and homeland security support program is to provide for and coordinate an integrated, statewide, comprehensive emergency management system for New Mexico, including all agencies, branches and levels of government for the citizens of New Mexico.

Appropriations:

(a)	Personal services and					
	employee benefits	1,570.5	97.5	1,651.2	3,319.2	
(b)	Contractual services	80.4	27.0	3,120.6	3,228.0	
(c)	Other	1,229.8	10.0	95.8	30,664.2	31,999.8

Authorized FTE: 20.00 Permanent; 40.00 Term

The general fund appropriation to the emergency management and homeland security support program of the department of public safety in the personal services and employee benefits category includes two hundred fifty thousand dollars (\$250,000) for homeland security reorganization contingent on enactment of House Bill 227 or similar legislation of the first session of the forty-eighth legislature.

The general fund appropriation to the emergency management and homeland security support program of the department of public safety in the contractual services category includes forty-five thousand dollars (\$45,000) for statewide training for hazardous materials.

Performance measures:

(a) Outcome:	Number of program and administrative team compliance visits	
	conducted each year on all grants	35

(3) Program support:

The purpose of program support is to provide quality protection for the citizens of New Mexico through the business of information technology, forensic science, criminal records and financial management and administrative support to the participants in the criminal justice community.

Appropriations:

(a)	Personal services and					
	employee benefits	10,487.7	896.5	61.0	879.7	12,324.9
(b)	Contractual services	575.7	85.5	15.0	59.1	735.3
(c)	Other	3,489.9	576.2	27.1	6,756.3	10,849.5

Authorized FTE: 170.00 Permanent; 43.00 Term

The general fund appropriations to program support of the department of public safety include four hundred thousand dollars (\$400,000) to provide funding for a crime lab in Hobbs to serve all southeastern New Mexico.

The general fund appropriations to program support of the department of public safety include one hundred fifty thousand dollars (\$150,000) to provide additional funding for the crime lab in Las Cruces.

Performance measures:

- (a) Output: Percent of applicants' criminal background checks completed within twenty-eight days of submission 100%
- (b) Output: Percent of criminal fingerprint cards completed within thirty-five days of submission 100%
- (c) Output: Percent of deoxyribonucleic acid cases processed within seventy days from submission 100%

Subtotal			153,351.0	
TOTAL PUBLIC SAFETY	372,057.9	26,678.0	9,918.6 63,701.2	472,355.7

## H. TRANSPORTATION

### DEPARTMENT OF TRANSPORTATION:

(1) Programs and infrastructure:

The purpose of the programs and infrastructure program is to provide improvements and additions to the state's highway infrastructure to serve the interest of the general public. These improvements include those activities directly related to highway planning, design and construction necessary for a complete system of highways in the state.

Appropriations:

(a) Personal services and				
employee benefits	20,204.5		6,807.9	27,012.4
(b) Contractual services	86,574.5		200,464.4	287,038.9
(c) Other	51,935.4	140,206.4	192,141.8	

Authorized FTE: 404.00 Permanent; 41.00 Term; 2.00 Temporary

The other state funds appropriations to the programs and infrastructure program of the department of transportation include nineteen million two hundred four thousand eight hundred dollars (\$19,204,800) for a state-funded construction program.

~~The other state funds appropriation for expenditures relating to commuter rail is contingent on the department of transportation's submittal to the department of finance and administration and the legislative finance committee of a fiscal year 2008 operating budget for commuter rail by July 1, 2007.~~

~~The department of transportation shall submit quarterly reports showing initial project estimates and actual and projected costs for projects, to include commuter rail, using bond proceeds issued pursuant to Sections 67-3-59.3 and 67-3-59.4 NMSA 1978.~~

~~Twenty-four million one hundred thousand dollars (\$24,100,000) of interest earned on bond proceeds issued pursuant to Sections 67-3-59.3 and 67-3-59.4 NMSA 1978 is appropriated through fiscal year 2009 for expenditure on highway 491 for reconstruction and preservation of the existing two lanes.~~

~~The other state funds appropriations to the programs and infrastructure program of the department of transportation include one million dollars (\$1,000,000) for the state transit fund contingent on the enactment of House Bill 901, Senate Bill 854 or similar legislation of the first session of the forty-eighth legislature.~~

Performance measures:

- (a) Quality: Ride quality index for new construction  $\geq 4.3$
- (b) Output: Annual rural public transportation ridership 700,000
- (c) Output: Revenue dollars per passenger on park and ride \$2.25
- (d) Explanatory: Annual number of riders on park and ride 275,000
- (e) Outcome: Percent of runway miles rated good per federal aviation administration standards in public use airports 60%
- (f) Output: Annual number of commuter rail riders between Belen and Bernalillo 300,000
- (g) Quality: Percent of final cost-over-bid amount  $\leq 4\%$
- (h) Explanatory: Percent of programmed projects released to bid according to schedule 85%
- (i) Outcome: Percent of front-occupant seat belt use by the public 91%
- (j) Output: Number of nonalcohol-related traffic fatalities per one hundred million vehicle miles traveled 1.12
- (k) Outcome: Number of alcohol-related fatalities per one hundred

million vehicle miles traveled .88

(2) Transportation and highway operations:

The purpose of the transportation and highway operations program is to maintain and provide improvements to the state's highway infrastructure to serve the interest of the general public. These improvements include those activities directly related to preserving roadway integrity and maintaining open highway access throughout the state system.

Appropriations:

(a) Personal services and			
employee benefits	87,264.1	8,698.7	95,962.8
(b) Contractual services	51,503.7		51,503.7
(c) Other	98,441.3	319.0	98,760.3

Authorized FTE: 1,976.00 Permanent; 6.00 Term; 42.70 Temporary

Performance measures:

- (a) Output: Number of statewide improved-pavement surface miles 4,500
- (b) Efficiency: Maintenance expenditures per lane mile of combined system  
wide miles \$3,500
- (c) Quality: Customer satisfaction levels at rest areas 90%

(3) Program support:

The purpose of the program support program is to provide management and administration of financial and human resources, custody and maintenance of information and property and construction and maintenance projects.

Appropriations:

(a) Personal services and			
employee benefits	25,773.6	895.6	26,669.2
(b) Contractual services	2,096.6	460.5	2,557.1
(c) Other	17,112.2	276.9	17,389.1
(d) Other financing uses	6,000.0		6,000.0

Authorized FTE: 282.00 Permanent; 1.00 Term; 1.80 Temporary

Performance measures:

- (a) Quality: Number of external audit findings <=4
- (b) Quality: Percent of prior-year audit findings resolved 100%
- (c) Efficiency: Percent of payments made in less than thirty days 99%
- (d) Outcome: Percent of vacancy rate in all programs 10%
- (e) Output: Number of worker days lost due to accidents 127

Subtotal			805,035.3
TOTAL TRANSPORTATION	446,905.9	358,129.4	805,035.3

**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 12,524.0 605.2 6,960.8 20,090.0
- (b) Contractual services 305.0 110.0 10,487.8 10,902.8
- (c) Other 1,586.7 368.2 2,681.5 4,636.4

Authorized FTE: 209.20 Permanent; 102.00 Term; 4.60 Temporary

The general fund appropriation to the public education department in the other category includes four hundred thousand dollars (\$400,000) for the professional development dossier online system.

Performance measures:

- (a) Outcome: Percent of teachers adequately informed and trained on the preparation of the licensure advancement professional dossiers 95%
- (b) Outcome: Percent of compliance with the agreed-upon audit schedule

for the public education department internal audit section 100%

(c) Outcome: Percent completion of the data warehouse project 75%

(d) Outcome: Percent of prior-fiscal-year audit findings resolved and  
not repeated 100%

Subtotal 35,629.2

**APPRENTICESHIP ASSISTANCE:**

Appropriations: 650.0 650.0

Subtotal 650.0

**REGIONAL EDUCATION COOPERATIVES:**

Appropriations:

(a) Northwest: 1,593.0 1,593.0

(b) Northeast: 2,415.4 2,415.4

(c) Lea county: 3,900.0 3,900.0

(d) Pecos valley: 1,321.5 1,371.8 2,693.3

(e) Southwest: 300.0 4,500.0 4,800.0

(f) Central: 2,000.0 2,000.0 4,000.0

(g) High plains: 3,357.5 2,854.8 6,212.3

(h) Clovis: 335.7 1,700.0 2,035.7

(i) Ruidoso: 4,000.0 4,800.0 8,800.0

Subtotal 36,449.7

**PUBLIC EDUCATION DEPARTMENT SPECIAL APPROPRIATIONS:**

Appropriations:

(a) Accelerated educational  
retirement board contribution 14,506.8 14,506.8

(b) Beginning teacher mentorship 2,000.0 2,000.0

(c)	Breakfast for elementary students	450.0	450.0
(d)	Regional education cooperatives distance learning network	120.0	120.0
(e)	Twenty-first century learning centers statewide	1,500.0	1,500.0
(f)	Indian Education Act	2,500.0	2,500.0
(g)	Family and Youth Resource Act	1,500.0	1,500.0
(h)	Pre-kindergarten program	5,000.0	5,000.0
(i)	Graduation reality and dual-role skills program	1,000.0	1,000.0
(j)	Truancy and drop out prevention	1,000.0	1,000.0
(k)	Cyber academy at Rio Rancho high school	50.0	50.0
(l)	New Mexico cyber academy	500.0	500.0
(m)	Food to schools	500.0	500.0
(n)	College and high school re-design-Los Lunas schools	210.0	210.0
(o)	Kindergarten-three plus	7,163.4	7,163.4
(p)	Advanced placement	2,000.0	2,000.0
(q)	Summer reading, math and science institutes	2,500.0	2,500.0
(r)	School improvement framework	3,000.0	3,000.0

~~The general fund appropriation to the public education department includes fourteen million five hundred six thousand eight hundred dollars (\$14,506,800) to provide a three-quarter percent increase in the employer contribution to the educational retirement fund to be transferred in fiscal year 2008 to the educational retirement board to provide in advance for the fiscal year 2009 cost of the employer share of contribution increases for public education employees.~~

The general fund appropriation to the public education department for the Family and Youth Resource Act shall fund family and youth services pursuant to the Family and Youth Resource Act.

The general fund appropriation to the public education department for the Indian Education Act includes five hundred thousand dollars (\$500,000) to provide a rural literacy initiative to support new after-school and summer literacy block programs for students in kindergarten through eighth grade in schools with a high proportion of Native American students contingent on receipt of five hundred thousand dollars (\$500,000) in matching funds from other than state sources.

The general fund appropriation to the public education department includes seven million one hundred sixty-three thousand four hundred dollars (\$7,163,400) for kindergarten-three plus contingent on the enactment of House Bill 198 or similar legislation of the first session of the forty-eighth legislature.

In selecting and allocating funds for programs for school improvement, the secretary of public education shall offer a range of options, including programs chosen by schools that show evidence of having improved student achievement or research indicating that they will be successful if implemented.

The general fund appropriations to the public education department for the cyber academy for Rio Rancho high school, the regional education cooperatives distance learning networks and the statewide cyber academy are contingent on enactment of Senate Bill 209 or similar legislation of the first session of the forty-eighth legislature.

~~The public education department and the children, youth and families department shall report jointly and quarterly to the legislative education study committee and the legislative finance committee regarding implementation of the pre-kindergarten program. The four quarterly reports shall address student progress by department, infrastructure expenditures, teacher and provider qualifications and adequacy of instructional materials.~~

Any unexpended balances in the authorized distributions remaining at the end of fiscal year 2008 from appropriations made from the general fund shall revert to the general fund.

Subtotal	45,500.2
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## **PUBLIC SCHOOL FACILITIES AUTHORITY:**

The purpose of the public school facilities oversight program is to oversee public school facilities in all eighty-nine school districts to ensure correct and prudent planning, building and maintenance using state funds and to ensure adequacy of all facilities in accordance with public education department approved educational programs.

### Appropriations:

- |                           |         |         |
|---------------------------|---------|---------|
| (a) Personal services and |         |         |
| employee benefits         | 4,103.2 | 4,103.2 |
| (b) Contractual services  | 255.0   | 255.0   |

(c) Other 1,495.5 1,495.5

Authorized FTE: 55.00 Permanent

Performance measures:

(a) Explanatory: Change in statewide public school facility condition index measured at December 31 of prior calendar year compared with prior year

Subtotal 5,853.7

**TOTAL OTHER EDUCATION** 60,565.9 18,251.8 45,265.1 124,082.8

## J. HIGHER EDUCATION

On approval of the higher education department, the state budget division of the department of finance and administration may approve increases in budgets of agencies, in this section, with the exception of the policy development and institutional financial oversight program of the higher education department, whose other state funds exceed amounts specified. In approving budget increases, the director of the state budget division shall advise the legislature through its officers and appropriate committees, in writing, of the justification for the approval.

In reviewing institutional operating budgets, the higher education department shall ensure funds appropriated for nursing programs at public, postsecondary institutions are directed to that purpose.

The general fund appropriations for special project expansions are to continue projects initiated by Laws 2005, Chapter 34.

Except as otherwise provided, any unexpended balance remaining at the end of fiscal year 2008 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 to ensure both the efficient use of state resources and progress in implementing a statewide agenda.

Appropriations:

(a) Personal services and  
employee benefits 2,604.5 35.8 319.1 2,959.4

(b)	Contractual services	556.2		481.9	1,038.1
(c)	Other	393.5	30.0	280.8	1,206.8 1,911.1
(d)	Other financing uses	21,561.0		2,420.2	23,981.2

Authorized FTE: 30.50 Permanent; 5.50 Term

Any unexpended balances in the policy development and institutional financial oversight program remaining at the end of fiscal year 2008 from appropriations made from the general fund shall revert to the general fund.

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department includes three million five hundred thousand dollars (\$3,500,000) for the higher education program development enhancement fund for higher education institutions to address the state's nursing shortage. In allocating these funds, the higher education department is directed to consider past performance and implementation of new and innovative programs to increase enrollment and accelerate matriculation. Further, the higher education department shall annually report appropriate performance measures on outcomes across institutions and across programs designed to address the nursing shortage.

~~The general fund appropriation to the policy development and institutional financial oversight program of the higher education department in the other financing uses category includes six million five thousand dollars (\$6,005,000) to provide a three-quarter percent increase in the employer contribution to the educational retirement fund to be transferred in fiscal year 2008 to the educational retirement board to provide in advance for the fiscal year 2009 cost of the employer share of contribution increase for higher education employees.~~

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department includes five hundred thousand dollars (\$500,000) to provide a supplemental compensation package for nursing faculty and staff at public postsecondary institutions to be transferred consistent with the current higher education compensation methodology.

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department in the other financing uses category includes one million dollars (\$1,000,000) for athletics to be distributed as follows: two hundred thousand dollars (\$200,000) each to eastern New Mexico university, western New Mexico university and New Mexico highlands university, one hundred fifty thousand dollars (\$150,000) each to New Mexico military institute and New Mexico junior college and one hundred thousand dollars (\$100,000) to northern New Mexico college.

The general fund appropriations to the policy development and institutional financial oversight program of the higher education department in the personal services and employee benefits category include seventy-seven thousand five hundred dollars (\$77,500) and in the contractual services category four hundred twenty-two thousand five hundred dollars (\$422,500) for operational costs of the innovative digital education and learning system.

By September 1, 2007, the higher education department shall report time series data to the office of the governor, public education department, department of finance and administration and legislative finance committee on performance measures and targets for recruitment, enrollment, retention and graduation rates for Native American and Hispanic students. The higher education department shall provide an action plan by institution to achieve targeted results.

Performance measures:

(a) Efficiency: Percent of properly completed capital infrastructure draws released to the state board of finance within thirty days of receipt from the institutions 100%

(b) Outcome: Percent of adult basic education students who set attainment of general educational development as a goal 17%

(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 can benefit from postsecondary education and training beyond high school.

Appropriations:

(a) Other	24,127.0	38,960.0	569.9	63,656.9
(b) Other financing uses		100.0		100.0

Performance measures:

(a) Output: Number of students receiving college affordability awards 625

(b) Output: Number of lottery success recipients enrolled in or graduated from college after the ninth semester 2,500

(c) Outcome: Percent of students meeting eligibility criteria for state loan programs who continue to be enrolled by the sixth semester 75%

(d) Outcome: Percent of students meeting eligibility criteria for work-study programs who continue to be enrolled by the sixth semester 70%

(e) Outcome: Percent of students meeting eligibility criteria for merit-based programs who continue to be enrolled by the sixth semester 85%

(f) Outcome: Percent of students meeting eligibility criteria for need-based programs who continue to be enrolled by the

sixth semester 65%

Subtotal 93,646.7

## UNIVERSITY OF NEW MEXICO:

### (1) Main campus:

The purpose of the instruction and general program is to provide education services designated 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	177,371.0	156,442.9	6,435.0	340,248.9
(b)	Athletics	2,745.1	27,311.8	44.0	30,100.9
(c)	Educational television	1,330.4	5,320.3	4,492.1	11,142.8
(d)	Other	181,276.8	107,532.5	288,809.3	

If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for university of New Mexico main campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

#### Performance measures:

- (a) Outcome: Percent of full-time, degree-seeking, first-time freshmen retained to second year 76.6%
- (b) Output: Number of post-baccalaureate degrees awarded 1,350
- (c) Outcome: Amount of external dollars for research and public service, in millions \$117
- (d) Output: Number of undergraduate transfer students from two-year colleges 1,630
- (e) Outcome: Percent of full-time, degree-seeking, first-time freshmen completing an academic program within six years 44%

### (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      9,333.2 7,224.1      1,103.3 17,660.6
- (b) Nurse expansion      35.8      35.8

If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for university of New Mexico Gallup branch campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome:      Percent of new students taking nine or more credit hours successful after three years      42.5%
- (b) Outcome:      Percent of graduates placed in jobs in New Mexico      60.4%
- (c) Output:      Number of students enrolled in the area vocational schools program      440
- (d) Outcome:      Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term      82%

(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      2,182.0 2,153.9      446.6 4,782.5

If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for university of New

Mexico Los Alamos branch campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome: Percent of new students taking nine or more credit hours  
successful after three years 65%
- (b) Outcome: Percent of graduates placed in jobs in New Mexico 43%
- (c) Output: Number of students enrolled in the small business  
development center program 580
- (d) Outcome: Percent of first-time, full-time, degree-seeking students  
enrolled in a given fall term who persist to the following  
spring term 75%

(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 4,796.3 4,628.4 2,366.4 11,791.1

If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for university of New Mexico Valencia branch campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome: Percent of new students taking nine or more credit hours  
successful after three years 62%
- (b) Outcome: Percent of graduates placed in jobs in New Mexico 68%
- (c) Output: Number of students enrolled in the adult basic education  
program 950

(d) 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) 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 2,324.7 3,073.8 201.1 5,599.6

If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for university of New Mexico Taos branch campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

(a) Outcome: Percent of new students taking nine or more credit hours

successful after three years 58%

(b) Outcome: Percent of graduates placed in jobs in New Mexico 56%

(c) Output: Number of students enrolled in the concurrent enrollment

program 1,600

(d) 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 77.1 77.1

(b) Judicial education center 363.3 363.3

(c) Spanish resource center 108.6 108.6

(d)	Southwest research center	1,834.2	1,834.2
(e)	Substance abuse program	154.5	154.5
(f)	Native American intervention	196.2	196.2
(g)	Resource geographic information system	133.3	133.3
(h)	Natural heritage program	79.7	79.7
(i)	Southwest Indian law clinic	207.4	207.4
(j)	BBER census and population analysis	402.7 8.8	411.5
(k)	New Mexico historical review	84.3	84.3
(l)	Ibero-American education consortium	173.9	173.9
(m)	Youth education recreation program	147.8	147.8
(n)	Advanced materials research	68.1	68.1
(o)	Manufacturing engineering program	641.7	641.7
(p)	Hispanic student center	127.8	127.8
(q)	Wildlife law education	149.4	149.4
(r)	Science and engineering women's career development	23.4	23.4
(s)	Youth leadership development	76.0	76.0

(t)	Morrissey hall research	57.1	57.1
(u)	Disabled student services	233.9	233.9
(v)	Minority graduate recruitment and retention	167.5	167.5
(w)	Graduate research development fund	86.4	86.4
(x)	Community-based education	843.5	843.5
(y)	Corrine Wolfe children's law center	168.4	168.4
(z)	Mock trials program	82.7	82.7
(aa)	Engaging Latino communities for education	94.9	94.9
(bb)	Pre-college minority student math/science	170.8	170.8
(cc)	Special projects expansion	1,358.2	1,358.2
(dd)	Latin American student recruitment	247.0	247.0
(ee)	Saturday science and math academy	70.0	70.0
(ff)	Utton transboundary resources center	140.0	140.0
(gg)	Law college prep mentoring program	125.0	125.0
(hh)	Navajo language research and teaching	100.0	100.0

(ii)	Biomedical engineering	200.0		200.0
(jj)	Student athlete retention		250.0	250.0

(7) Health sciences center:

The purpose of the instruction and general program is to provide education services designated 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)	Medical school instruction			
	and general purposes	55,087.8	28,041.1	1,450.0 84,578.9
(b)	Office of medical			
	investigator	3,901.1	1,130.0	5.0 5,036.1
(c)	Emergency medical services			
	academy	850.1	500.0	1,350.1
(d)	Children's psychiatric			
	hospital	6,436.5	12,000.0	18,436.5
(e)	Hemophilia program	556.6		556.6
(f)	Carrie Tingley hospital	4,699.8	11,857.4	16,557.2
(g)	Out-of-county indigent			
	fund	1,241.1		1,241.1
(h)	Specialized perinatal care	574.1		574.1
(i)	Newborn intensive care	3,356.5	930.0	4,286.5
(j)	Pediatric oncology	417.7	400.0	817.7
(k)	Young children's health			
	center	417.6	1,253.4	1,671.0
(l)	Pediatric pulmonary center	193.0		193.0
(m)	Area health education			

	centers	178.2	50.0	350.0	578.2	
(n)	Grief intervention program			172.1		172.1
(o)	Pediatric dysmorphology			149.7		149.7
(p)	Locum tenens	653.0	1,550.0		2,203.0	
(q)	Disaster medicine program			107.1		107.1
(r)	Poison control center	1,077.3	450.0		168.2	1,695.5
(s)	Fetal alcohol study		174.0			174.0
(t)	Telemedicine	507.0	250.0	545.5	1,302.5	
(u)	Nurse-midwifery program			393.1		393.1
(v)	Other - health sciences			289,597.7	58,582.6	348,180.3
(w)	Cancer center	2,828.9	4,394.9	7,116.4	14,340.2	
(x)	Children's cancer camp		107.3			107.3
(y)	Oncology		99.9		99.9	
(z)	Lung and tobacco-related illnesses			1,000.0		1,000.0
(aa)	Genomics, biocomputing and environmental health research			126.1	1,500.0	1,626.1
(bb)	Los pasos program		4.9	50.0		54.9
(cc)	Trauma specialty education		29.8	400.0		429.8
(dd)	Pediatrics specialty education		29.0	400.0		429.0
(ee)	Native American health center			311.4		311.4
(ff)	Donated dental services		25.0			25.0
(gg)	Rural physicians residencies			299.7		299.7

(hh)	Hepatitis C community health		
	outcomes	550.0	550.0
(ii)	Dental residencies	100.0	100.0
(jj)	Nurse expansion	1,490.7	1,490.7
(kk)	Special projects expansion	679.9	679.9
(ll)	Cooperative pharmacy program	400.0	400.0

The other state funds appropriations to the university of New Mexico health sciences center include five million four hundred thousand dollars (\$5,400,000) from the tobacco settlement program fund for the following: one million dollars (\$1,000,000) for lung and tobacco-related illnesses; one million dollars (\$1,000,000) for instruction and general purposes; one million five hundred thousand dollars (\$1,500,000) for research in genomics, biocomputing and environmental health; four hundred fifty thousand dollars (\$450,000) for the poison control center; four hundred thousand dollars (\$400,000) for the pediatric oncology program; one hundred fifty thousand dollars (\$150,000) for the telemedicine program; fifty thousand dollars (\$50,000) for the los pasos program; fifty thousand dollars (\$50,000) for area health education centers; four hundred thousand dollars (\$400,000) for specialty education in trauma; and four hundred thousand dollars (\$400,000) for specialty education in pediatrics. These funds may not be used for any other purpose.

The general fund appropriation to the university of New Mexico health sciences center for pediatric oncology includes one hundred fifty thousand dollars (\$150,000) for contracting for family and patient support services through the children's cancer fund.

Performance measures:

- (a) Outcome: University of New Mexico inpatient satisfaction rate 80.1%
- (b) Output: Number of university of New Mexico cancer research and treatment center clinical trials 188
- (c) Output: Number of post-baccalaureate degrees awarded 277
- (d) Outcome: External dollars for research and public service, in millions \$245.5
- (e) Outcome: Pass rates for step three of the United States medical licensing exam on the first attempt 98%

Subtotal 1,231,823.3

**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 work force, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a)	Instruction and general purposes	111,682.3	72,858.8	15,283.8	199,824.9
(b)	Athletics	3,409.4	6,896.4	29.1	10,334.9
(c)	Educational television	1,208.6	327.0	726.6	2,262.2

If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for New Mexico state university main campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome: Percent of full-time, degree-seeking, first-time freshmen retained to second year 75%
- (b) Outcome: External dollars for research and creative activity, in millions \$185
- (c) Output: Number of teacher preparation programs available at New Mexico community college sites 5
- (d) Outcome: Percent of full-time, degree-seeking, first-time freshmen completing an academic program within six years 50%
- (e) Outcome: Number of undergraduate transfer students from two-year colleges 1,028

(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      5,919.0 2,585.1      1,209.8 9,713.9
- (b) Nurse expansion      30.1      30.1

If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for New Mexico state university Alamogordo branch campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome:      Percent of new students taking nine or more credit hours successful after three years      48%
- (b) Outcome:      Percent of graduates placed in jobs in New Mexico      64%
- (c) Output:      Number of students enrolled in the small business development center program      1,000
- (d) Outcome:      Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term      78%

(3) Carlsbad branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

- (a) Instruction and general purposes      3,439.7 2,456.7      946.0 6,842.4
- (b) Manufacturing sector development program      2.8      2.8
- (c) Nurse expansion      37.4      37.4

If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for New Mexico state

university Carlsbad branch campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome: Percent of new students taking nine or more credit hours  
successful after three years 55%
- (b) Outcome: Percent of graduates placed in jobs in New Mexico 82%
- (c) Output: Number of students enrolled in the contract training program 450
- (d) Outcome: Percent of first-time, full-time, degree-seeking students  
enrolled in a given fall term who persist to the following  
spring term

(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 17,508.5 10,325.2 1,094.5 28,928.2
- (b) Nurse expansion 112.4 112.4

If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for New Mexico state university Dona Ana branch campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome: Percent of new students taking nine or more credit hours  
successful after three years 43%
- (b) Outcome: Percent of graduates placed in jobs in New Mexico 77%
- (c) Output: Number of students enrolled in the adult basic education  
program 5,100

(d) 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 2,987.0 1,170.0 815.1 4,972.1

If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for New Mexico state university Grants branch campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

(a) Outcome: Percent of new students taking nine or more credit hours

successful after three years 47%

(b) Outcome: Percent of graduates placed in jobs in New Mexico 80%

(c) Output: Number of students enrolled in the community services

program 725

(d) 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%

(6) Department of agriculture:

Appropriations: 9,967.8 2,829.9 3,117.2 15,914.9

(7) Research and public service projects:

Appropriations:

(a) Agricultural experiment

	station	14,028.7	3,944.4	10,380.0	28,353.1
(b)	Cooperative extension				
	service	11,012.8	4,515.3	10,587.6	26,115.7
(c)	Water resource research	442.7	210.4	301.0	954.1
(d)	Coordination of Mexico				
	programs	97.1		97.1	
(e)	Indian resources development	379.4			379.4
(f)	Waste management				
	education program	512.6		2,595.0	3,107.6
(g)	Campus security	90.3		90.3	
(h)	Carlsbad manufacturing				
	sector development program	363.6			363.6
(i)	Manufacturing sector				
	development program	402.6	17.2	51.9	471.7
(j)	Alliances for				
	underrepresented students	365.1			365.1
(k)	Arrowhead center for				
	business development	106.9		106.9	
(l)	Viticulturist	151.9		151.9	
(m)	Family strengthening/				
	parenting classes	47.5		47.5	
(n)	Aerospace engineering	486.8		486.8	
(o)	Math and science skills for				
	disadvantaged students	28.5		28.5	
(p)	Nurse expansion	449.7		449.7	

(q)	Special projects expansion		1,415.8		1,415.8
(r)	New Mexico space consortium				
	grant	50.0		50.0	
(s)	Las Vegas schools agriculture				
	education program	110.0			110.0
(t)	Rodeo	50.0		50.0	
(u)	Tribal extension program		150.0		150.0
(v)	<del>Agricultural leadership</del>				
	<del>program</del>	<del>100.0</del>		<del>100.0</del>	
(w)	Institute for international				
	relations	200.0		200.0	
(x)	Mental health nurse				
	practitioner	300.0		300.0	

The general fund appropriation to aerospace engineering at New Mexico state university includes one hundred fifty thousand dollars (\$150,000) for the New Mexico institute of mining and technology.

Subtotal	342,921.0
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**NEW MEXICO HIGHLANDS UNIVERSITY:**

(1) Main:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a)	Instruction and general				
	purposes	27,856.3	14,268.7	10,000.8	52,125.8
(b)	Athletics	1,601.5	35.0	60.0	1,696.5

If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for New Mexico highlands

university main campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome: Percent of full-time, degree-seeking, first-time freshmen retained to second year 61%
- (b) Outcome: Percent of graduating seniors indicating "satisfied" or "very satisfied" with the university on student satisfaction survey 90%
- (c) Outcome: Percent of total funds generated by grants and contracts 20%
- (d) Output: Number of undergraduate transfer students from two-year colleges 437
- (e) Output: Percent of full-time, degree-seeking, first-time freshmen completing an academic program within six years 20%

(2) Research and public service projects:

Appropriations:

(a)	Upward bound	96.7	21.0	831.4	949.1
(b)	Advanced placement	288.1	398.8		686.9
(c)	Native American recruitment and retention	44.2		44.2	
(d)	Diverse populations study	218.8	422.5		1,052.4 1,693.7
(e)	Visiting scientist	18.1		18.1	
(f)	Spanish program	287.7	50.0		337.7
(g)	Forest and watershed institute	249.7	255.4	505.1	
(h)	Bilingual education material	60.0	200.0		260.0
(i)	Special projects expansion	532.7	600.0		1,132.7

(j)	Spanish/English immersion				
	program	199.8	4.0		203.8
<del>(k)</del>	<del>Demonstration research program</del>				
	entry in medical school	<del>125.0</del>			<del>125.0</del>
(l)	Social work outreach and				
	clinical training	50.0			50.0
	Subtotal				59,828.6

**WESTERN NEW MEXICO UNIVERSITY:**

(1) Main:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a)	Instruction and general				
	purposes	15,358.8	6,368.6	401.0	22,128.4
(b)	Athletics	1,632.9	109.0		1,741.9

If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for western New Mexico university main campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome: Percent of full-time, degree-seeking, first-time freshmen retained to second year 51%
- (b) Output: Number of graduates receiving teacher licensure 155
- (c) Outcome: External dollars to be used for programs to promote student success, in millions \$4.1
- (d) Output: Number of undergraduate transfer students from two-year colleges 150

(e) Output: Percent of full-time, degree-seeking, first-time freshmen  
 completing an academic program within six years 20%

(2) Research and public service projects:

Appropriations:

(a)	Educational television	126.1		126.1
(b)	Child development center	588.2	545.2	1,133.4
(c)	North American free trade agreement	14.7		14.7
(d)	Web-based teacher licensure	388.6		388.6
(e)	Nurse expansion	157.4		157.4
(f)	Special projects expansion	297.4		297.4
	Subtotal			25,987.9

**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	25,487.3	9,500.0	2,500.0	37,487.3
(b)	Athletics	1,757.1	653.0	2,410.1	
(c)	Educational television	1,090.1	329.0	1,224.0	2,643.1

If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for eastern New Mexico university main campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

(a) Outcome: Percent of full-time, degree-seeking, first-time freshmen

retained to second year 60%

(b) Outcome: External dollars supporting research and student success,  
in millions \$8.8

(c) Output: Number of undergraduate transfer students from two-year  
colleges 400

(d) Output: Percent of full-time, degree-seeking, first-time freshmen  
completing an academic program within six years 33%

(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 14,380.7 5,699.2 3,414.7 23,494.6

(b) Distance education for high  
school 75.0 75.0

(c) Nurse expansion 75.4 75.5 150.9

If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for eastern New Mexico university Roswell branch campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

(a) Outcome: Percent of new students taking nine or more credit hours  
successful after three years 61%

(b) Outcome: Percent of graduates placed in jobs in New Mexico 73%

(c) Efficiency: Percent of programs having stable or increasing enrollments 80%

(d) Outcome: Percent of first-time, full-time, degree-seeking students  
enrolled in a given fall term who persist to the following

spring term 75.9%

(3) Ruidoso branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general

purposes	1,301.7	1,006.0	500.0	2,807.7
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(b) Adult basic education-

Ruidoso	135.0	100.7	38.5	274.2
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If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for eastern New Mexico university Ruidoso branch campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

(a) Outcome: Percent of new students taking nine or more credit hours

successful after three years 59%

(b) Outcome: Percent of graduates placed in jobs in New Mexico 73%

(c) Efficiency: Percent of programs having stable or increasing enrollments 65%

(d) Outcome: Percent of first-time, full-time, degree-seeking students

enrolled in a given fall term who persist to the following

spring term 54.9%

(4) Research and public service projects:

Appropriations:

(a) Center for teaching

excellence	260.3		260.3
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(b) Blackwater Draw site and

museum	92.7	10.0	102.7
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(c)	Assessment project	135.0		135.0
(d)	Social work	156.1		156.1
(e)	Job training for physically and mentally challenged	24.0	23.9	47.9
(f)	Math and science programs	25.0		25.0
(g)	Student success programs	77.0		77.0
(h)	Airframe mechanics	73.6	73.6	147.2
(i)	Nurse expansion	42.0		42.0
(j)	Special projects expansion	563.3		563.3
	Subtotal			70,899.4

**NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY:**

(1) Main:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a)	Instruction and general purposes	26,470.5	11,453.2	37,923.7
(b)	Athletics	169.2	6.5	175.7

If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for New Mexico institute of mining and technology main campus instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome: Percent of full-time, degree-seeking, first-time freshmen retained to second year 75%
- (b) Output: Number of students registered in master of science teaching program 100

(c) Outcome: External dollars for research and creative activity, in  
 millions \$75

(d) Output: Number of undergraduate transfer students from two-year  
 colleges 40

(e) Output: Percent of full-time, degree-seeking, first-time freshmen  
 completing an academic program within six years 45%

(2) Research and public service projects:

Appropriations:

(a)	Minority engineering, math and science	215.0		215.0	
(b)	Bureau of mines	3,920.9	100.0	9,620.0	13,640.9
(c)	Petroleum recovery research center	1,912.5		10,000.0	11,912.5
(d)	Bureau of mines inspection		297.4	380.0	677.4
(e)	Energetic materials research center	766.8	400.0	40,500.0	41,666.8
(f)	Science and engineering fair		362.5		362.5
(g)	Institute for complex additive systems analysis		540.8	20,000.0	20,540.8
(h)	Cave and karst research		429.3		429.3
(i)	Geophysical research center		953.0	9,450.0	10,403.0
(j)	Homeland security center		308.4	5,000.0	5,308.4
(k)	Special projects expansion		959.5		959.5

The general fund appropriation to the New Mexico institute of mining and technology for the bureau of mines includes one hundred thousand dollars (\$100,000) from federal Mineral Lands Leasing Act receipts.

The general fund appropriation to the New Mexico institute of mining and technology for the minority engineering, math and science program includes thirty-five thousand dollars (\$35,000) for partnership with the New Mexico state university center for environmental monitoring in Carlsbad to develop an energy curriculum and a one-week in-depth program.

Subtotal 144,215.5

**NORTHERN NEW MEXICO COLLEGE:**

(1) Main:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general

purposes	9,563.3	3,199.2	6,200.1	18,962.6
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If the board of regents increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for northern New Mexico college instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

(a) Outcome: Percent of new students taking nine or more credit hours

successful after three years 71%

(b) Outcome: Percent of graduates placed in jobs in New Mexico 70%

(c) Output: Number of students enrolled in the adult basic education

program 300

(d) Outcome: Percent of first-time, full-time, degree-seeking students

enrolled in a given fall term who persist to the following

spring term 75%

(2) Research and public service projects:

Appropriations:

(a) Northern pueblos institute	56.7	56.7
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(b)	Middle school teachers math/ science	250.0	250.0
(c)	Nurse expansion	29.2	29.2
(d)	Special projects expansion	421.8	421.8
(e)	Math and science teacher education	100.0	100.0
	Subtotal		19,820.3

**SANTA FE COMMUNITY COLLEGE:**

(1) Main:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	9,689.5	22,500.0	3,580.0	35,769.5
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If the governing board increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for Santa Fe community college instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome: Percent of new students taking nine or more credit hours successful after three years 48%
- (b) Outcome: Percent of graduates placed in jobs in New Mexico 78%
- (c) Output: Number of students enrolled in the contract training program 3,000
- (d) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 75%

(2) Research and public service projects:

Appropriations:

(a)	Small business development centers	4,518.0	819.7	900.0	6,237.7
(b)	Sign language services	22.4			22.4
(c)	Nurse expansion	38.5			38.5
	Subtotal				42,068.1

**CENTRAL NEW MEXICO COMMUNITY COLLEGE:**

(1) Main:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	50,930.7	45,000.0	5,000.0	100,930.7
(b)	Other	7,500.0	25,000.0	32,500.0	

If the governing board increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for central New Mexico community college instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome: Percent of new students taking nine or more credit hours successful after three years 48%
- (b) Outcome: Percent of graduates placed in jobs in New Mexico 82%
- (c) Output: Number of students enrolled in distance education program 2,900
- (d) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 83.3%

(2) Research and public service projects:

Appropriations:

(a) Tax help New Mexico	342.0	342.0
Subtotal		133,772.7

**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	7,990.2	5,155.4	2,302.1	15,447.7
(b) Nurse expansion	36.1			36.1

If the governing board increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for Luna community college instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome: Percent of new students taking nine or more credit hours successful after three years 54%
- (b) Outcome: Percent of graduates placed in jobs in New Mexico 90%
- (c) Output: Number of students enrolled in the small business development center program 400
- (d) 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		15,483.8
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**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	2,689.8	1,100.0	1,210.2 5,000.0

If the governing board increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for Mesalands community college instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome: Percent of new students taking nine or more credit hours  
successful after three years 45.6%
- (b) Outcome: Percent of graduates placed in jobs in New Mexico 67.5%
- (c) Output: Number of students enrolled in the small business  
development center program 75
- (d) Outcome: Percent of first-time, full-time, degree-seeking students  
enrolled in a given fall term who persist to the following  
spring term 64%

Subtotal 5,000.0

**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	6,126.7	13,808.9	1,098.8 21,034.4
(b) Athletics	39.1		39.1
(c) Nurse expansion	84.6		84.6

(d) Lea county distance  
 education consortium 100.0 100.0

Performance measures:

- (a) Outcome: Percent of new students taking nine or more credit hours  
 successful after three years 65%
- (b) Outcome: Percent of graduates placed in jobs in New Mexico 67%
- (c) Output: Number of students enrolled in distance education program 4,300
- (d) Outcome: Percent of first-time, full-time, degree-seeking students  
 enrolled in a given fall term who persist to the following  
 spring term 72.5%

Subtotal 21,258.1

**SAN JUAN COLLEGE:**

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so 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 19,081.0 24,754.5 9,282.0 53,117.5

If the governing board increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for San Juan college instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome: Percent of new students taking nine or more credit hours  
 successful after three years 71%
- (b) Outcome: Percent of graduates placed in jobs in New Mexico 62%
- (c) Output: Number of students enrolled in the service learning program 385

(d) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 80%

(2) Research and public service projects:

Appropriations:

(a)	Dental hygiene program	204.7	30.0		234.7
(b)	Oil and gas job training program	100.8	110.0		210.8
(c)	Indigent youth program	79.9	80.0		159.9
(d)	Nurse expansion	367.3		150.0	517.3
	Subtotal				54,240.2

**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	9,826.2	3,328.0	630.0	13,784.2
(b)	Nurse expansion	71.9			71.9

If the governing board increases tuition for the 2007-2008 academic year more than five percent over the rates for the 2006-2007 academic year, the general fund appropriation for Clovis community college instruction and general purposes shall be reduced by an amount equal to the incremental amount generated by the tuition rate increase over five percent.

Performance measures:

- (a) Outcome: Percent of new students taking nine or more credit hours successful after three years 72%
- (b) Outcome: Percent of graduates placed in jobs in New Mexico 72%
- (c) Output: Number of students enrolled in the concurrent enrollment

program 560

(d) Outcome: Percent of first-time, full-time, degree-seeking students

enrolled in a given fall term who persist to the following

spring term 81%

Subtotal 13,856.1

### **NEW MEXICO MILITARY INSTITUTE:**

The purpose of the New Mexico military institute is to provide a 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 850.8 850.8

(b) Other 24,521.0 573.0 25,094.0

(c) Knowles legislative

scholarship program 715.0 715.0

(d) Special projects expansion 197.7 197.7

Performance measures:

(a) Output: Percent of full-time-equivalent capacity enrolled each fall

term 95%

(b) Outcome: American college testing composite scores for graduating

high school seniors 21.5

(c) Quality: Number of faculty development events 72

(d) Efficiency: Percent of cadets on scholarships or financial assistance 70%

Subtotal 26,857.5

### **NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED:**

The purpose of the New Mexico school for the blind and visually impaired program is to provide the training, support, and resources necessary to prepare blind and visually impaired children of New Mexico

to participate fully in their families, communities and the work force and to lead independent, productive lives.

Appropriations:	267.9	12,171.9	176.9	12,616.7
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Performance measures:

(a) Outcome: Percent of students achieving at least seventy percent of annual individualized education

(b) Quality: Number of staff proficient in Braille on main campus 52

(c) Efficiency: Ratio of students per teacher at main campus

(d) Outcome: Percent of students achieving at least seventy percent of annual individualized education program goals in the early childhood program

(e) Output: Number of students served through outreach programs

Subtotal			12,616.7	
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## **NEW MEXICO SCHOOL FOR THE DEAF:**

The purpose of the New Mexico school for the deaf program is to provide a school-based comprehensive, fully-accessible and language-rich learning environment for its students who are deaf or 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 or hard-of-hearing.

Appropriations:	3,156.0	11,842.6	25.0	15,023.6
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Performance measures:

(a) Outcome: Percent of students in grades three to twelve demonstrating academic improvement across curriculum domains 75%

(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 90%

(c) Outcome: Percent of parents satisfied with educational services from

New Mexico school for the deaf 90%

(d) Outcome: Number of teachers and support staff participating in a two-year intensive staff development-training program in bilingual education methodologies 10

Subtotal 15,023.6

**TOTAL HIGHER EDUCATION** 795,873.3 1,118,799.1 316.6 414,330.5  
2,329,319.5

## K. PUBLIC SCHOOL SUPPORT

Except as otherwise provided, unexpended balances of appropriations made in this subsection shall not revert at the end of fiscal year 2008.

### 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: 2,272,533.9 750.0 2,273,283.9

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 2007-2008 school year and then, upon verification of the number of units statewide for fiscal year 2008 but no later than January 31, 2008, the secretary of public education may adjust the program unit value.

The general fund appropriation to the state equalization guarantee distribution includes ninety million five hundred ninety-six thousand three hundred dollars (\$90,596,300) to provide an average five percent salary increase for all teachers, other instructional staff and other licensed and unlicensed staff, effective July 1, 2007. Prior to the approval of a school district's or charter school's budget, the secretary of public education shall verify that each school district or charter school is providing an average five percent salary increase for all teachers and other licensed school employees and an average five percent salary increase for nonlicensed school employees.

The general fund appropriation to the state equalization guarantee distribution includes sufficient funds to provide an additional two percent average salary increase for those instructional support providers who practice licensed professions that require a bachelor's or higher degree and whose annual salaries on a full-time basis are below sixty thousand dollars (\$60,000). The secretary of public education shall verify that school districts and charter schools have implemented an average five percent salary increase for instructional support providers prior to implementation of the additional two percent average salary increase for instructional support providers.

The general fund appropriation to the state equalization guarantee distribution includes sufficient funds to provide an additional two percent average salary increase for principals and assistant principals with priority given to the level of responsibility each principal or assistant principal is charged with. The secretary of public education shall verify that school districts and charter schools have implemented an average five percent salary increase for principals and assistant principals prior to implementation of the additional two percent average salary increase for principals and assistant principals.

The general fund appropriation to the state equalization guarantee distribution includes sufficient funds to implement the fifty thousand dollar (\$50,000) minimum salary for level three-A teachers. The secretary of public education shall verify that school districts and charter schools have implemented an average five percent salary increase for teachers prior to implementing the minimum salaries for level three-A teachers.

The secretary of public education, in collaboration with the office of educational accountability of the department of finance and administration, shall ensure all level three-A teachers receiving salary increases under the three-tiered minimum salary have been evaluated under the tiered licensure evaluation system and have the professional competencies of level three-A teachers. The secretary of public education shall withhold from the public school distribution funding for the minimum salary of any teacher who has not been evaluated.

The general fund appropriation to the state equalization guarantee distribution contains sufficient funding to provide a three-quarter percent increase in the employer contribution to the educational retirement fund.

The general fund appropriation to the state equalization guarantee distribution contains eight million dollars (\$8,000,000) for elementary physical education. 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 shall annually determine the programs and the consequent number of students in elementary physical education that will be used to calculate the number of elementary physical education program units.

For the 2007-2008 school year, the state equalization guarantee distribution contains sufficient funding for school districts to implement a formula-based program for the first time. Those districts shall use current year membership in the calculation of program units for the new formula-based program.

The general fund appropriation to the state equalization guarantee distribution reflects the deduction of federal revenue pursuant to Paragraph (2) of Subsection C of Section 22-8-25 NMSA 1978 that includes payments commonly known as "impact aid funds" pursuant to 20 USCA 7701 et seq., and formerly known as "PL874 funds".

The general fund appropriation to the public school fund shall be reduced by the amounts transferred to the public school fund from the current school fund and from the federal Mineral Lands Leasing Act receipts otherwise unappropriated.

Any unexpended balances in the authorized distributions remaining at the end of fiscal year 2008 from appropriations made from the general fund shall revert to the general fund.

Performance measures:

(a) Quality: Annual percent of classes in core academic subjects taught

by highly qualified teachers in high-poverty schools,

kindergarten through twelfth grade 95%

(b) Quality: Annual percent of core academic subjects taught by highly qualified teachers, kindergarten through twelfth grade 95%

(c) Outcome: Percent of elementary school students who achieve the No Child Left Behind Act annual measurable objective for proficiency or above on standards-based assessments in reading and language arts 59%

(d) Outcome: Percent of elementary school students who achieve the No Child Left Behind Act annual measurable objective for proficiency or above on standards-based assessments in mathematics 44%

(e) Outcome: Percent of middle school students who achieve the No Child Left Behind Act annual measurable objective for proficiency or above on standards-based assessments in reading and language arts 53%

(f) Outcome: Percent of middle school students who achieve the No Child Left Behind Act annual measurable objective for proficiency or above on standards-based assessments in mathematics 35%

(g) Outcome: Percent of recent New Mexico high school graduates who take remedial courses in higher education at two-year and four-year schools 43%

(h) Explanatory: Annual cohort graduation rate for school year 2004-2005 ninth graders 80%

(2) Transportation distribution:

Appropriations: 105,566.9 105,566.9

The general fund appropriation to the transportation distribution includes two million two hundred sixty-six thousand dollars (\$2,266,000) to provide an average five percent salary increase for transportation employees effective July 1, 2007.

The general fund appropriation to the transportation distribution includes three hundred thirty-six thousand six hundred dollars (\$336,600) for transporting students enrolled in kindergarten plus programs approved by the public education department.

The general fund appropriation for the transportation distribution includes sufficient funding to provide a three-quarter percent increase in the employer contribution to the educational retirement fund.

(3) Supplemental distribution:

Appropriations:

(a)	Out-of-state tuition	370.0	370.0
(b)	Emergency supplemental	2,000.0	2,000.0

Any unexpended balances in the supplemental distributions of the public education department remaining at the end of fiscal year 2008 from appropriations made from the general fund shall revert to the general fund.

Subtotal 2,381,220.8

**FEDERAL FLOW THROUGH:**

Appropriations:	484,319.1	484,319.1
Subtotal	484,319.1	

**INSTRUCTIONAL MATERIAL FUND:**

Appropriations:	37,224.9	37,224.9
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The appropriation to the instructional material fund is made from the federal Minerals Land Leasing Act (30 USCA 181, et seq.) receipts.

Subtotal 37,224.9

**EDUCATIONAL TECHNOLOGY FUND:**

Appropriations:	6,000.0	6,000.0
Subtotal	6,000.0	

**SCHOOLS IN NEED OF IMPROVEMENT FUND:**

Appropriations:	2,500.0	2,500.0
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Subtotal 2,500.0

**SCHOOL LIBRARY MATERIAL FUND:**

Appropriations: 2,000.0 2,000.0

Subtotal 2,000.0

**TEACHER PROFESSIONAL DEVELOPMENT FUND:**

Appropriations: 2,500.0 2,500.0

Subtotal 2,500.0

**TOTAL PUBLIC SCHOOL SUPPORT** 2,430,695.7 750.0 484,319.1 2,915,764.8

**GRAND TOTAL FISCAL YEAR 2008**

**APPROPRIATIONS** 5,563,175.4 2,274,309.2 1,206,124.6 4,554,262.1 13,597,871.3

**Chapter 28 Section 5 Laws 2007**

**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 2007 and 2008. Unless otherwise indicated, any unexpended balance of the appropriations remaining at the end of fiscal year 2008 shall revert to the appropriate fund.

(1) LEGISLATIVE EDUCATION

STUDY COMMITTEE: 50.0 50.0

For American diploma project costs.

(2) LEGISLATIVE COUNCIL SERVICE: 100.0 100.0

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 with the collaboration with the New Mexico compilation commission and the ongoing development of the self-publication of the New Mexico statutes annotated 1978. The appropriation is from legislative cash balances.

(3) LEGISLATIVE COUNCIL SERVICE:

The period of time for expending the five hundred thousand dollars (\$500,000) appropriated in Subsection 1 of Section 5 of Chapter 109 of Laws 2006 for the public school funding formula study task force is extended through fiscal year 2008.

(4) LEGISLATIVE COUNCIL SERVICE: 100.0 100.0

To repair and replace the sound system in the House chamber. The appropriation is from legislative cash balances.

(5) LEGISLATIVE COUNCIL SERVICE: 538.2 538.2

To replace obsolete electrical dimming systems in the chambers, committee rooms, halls of history and the governor's office and cabinet room and to retrofit all offices in the capitol and capitol north with occupancy sensor controls to accomplish greater energy savings. The appropriation is from legislative cash balances.

~~(6) EIGHTH JUDICIAL DISTRICT COURT: 50.0 50.0~~

~~For vehicles.~~

(7) SECOND JUDICIAL DISTRICT ATTORNEY: 190.0 190.0

For a domestic violence pilot project.

(8) ATTORNEY GENERAL:

The period of time for expending the three million dollars (\$3,000,000) appropriated from the general fund operating reserve in Subsection 9 of Section 5 of Chapter 4 of Laws 2002 (1<sup>st</sup> E.S.) to prepare potential litigation with Texas on water issues contingent on the state board of finance certifying the need as extended by Subsection 6 of Section 5 of Chapter 76 of Laws 2003 as extended by Subsection 10 of Section 5 of Chapter 114 of Laws 2004 as extended by Subsection 13 of Section 5 of Chapter 33 of Laws 2005 as extended by Subsection 9 of Section 5 of Chapter 109 of Laws 2006 is extended through fiscal year 2008.

(9) ATTORNEY GENERAL: 2,400.0 2,400.0

To support technical and legal work relating to interstate water conflicts.

~~(10) STATE AUDITOR: 150.0 150.0~~

~~For an audit of the statewide human resources, accounting and management reporting system.~~

(11) TAXATION AND REVENUE DEPARTMENT:

The period of time for expending the two hundred thirty thousand dollars (\$230,000) appropriated from the general fund in Subsection 15 of Section 5 of Chapter 114 of Laws 2004 for revising motor vehicle division "agent" agreements to standardize agent contracts, operating procedures and accountability and maximize state revenues as extended by Subsection 15 of Section 5 of Chapter 33 of Laws 2005 as extended by Subsection 14 of Section 5 of Chapter 109 of Laws 2006 is extended through fiscal year 2008.

(12) TAXATION AND REVENUE DEPARTMENT:

The period of time for expending the one million five hundred thousand dollars (\$1,500,000) appropriated from the general fund in Subsection 13 of Section 5 of Chapter 109 of Laws 2006 for equipment purchase and installation of a centralized system to issue drivers' licenses, vehicle titles and registrations and individual taxpayer identification number compliance is extended through fiscal year 2008.

(13) TAXATION AND REVENUE DEPARTMENT:

The period of time for expending the two million three hundred thousand dollars (\$2,300,000) appropriated from the general fund in Subsection 14 of Section 5 of Chapter 114 of Laws 2004 for the tax administration program to enhance tax collection efforts as extended by Subsection 14 of Section 5 of Chapter 33 of Laws 2005 as extended by Subsection 12 of Section 5 of Chapter 109 of Laws 2006 is extended through fiscal year 2008.

(14) TAXATION AND REVENUE DEPARTMENT:

The period of time for expending the three hundred eighty-one thousand dollars (\$381,000) appropriated from the general fund in Subsection 15 of Section 5 of Chapter 114 of Laws 2004 for revising the traffic citation process, clearing backlogs, collecting overdue fines and maximizing revenues as extended by Subsection 16 of Section 5 of Chapter 33 of Laws 2005 as extended by Subsection 15 of Section 5 of Chapter 109 of Laws 2006 is extended through fiscal year 2008.

~~(15) DEPARTMENT OF FINANCE~~

~~AND ADMINISTRATION: 25.0 25.0~~

~~For a boundary and service study of the Chaparral area in Dona Ana and Otero counties.~~

(16) DEPARTMENT OF FINANCE

AND ADMINISTRATION: 75.0 75.0

For a driving-while-intoxicated curriculum in schools.

(17) DEPARTMENT OF FINANCE

AND ADMINISTRATION: 500.0 500.0

For a kidney dialysis center in McKinley county.

(18) DEPARTMENT OF FINANCE

AND ADMINISTRATION: 25.0 25.0

For first nations community services through Bernalillo county.

~~(19) DEPARTMENT OF FINANCE~~

~~AND ADMINISTRATION: 30.0 30.0~~

~~For the New Mexico activities association all star program.~~

(20) DEPARTMENT OF FINANCE

AND ADMINISTRATION: 850.0 850.0

For regional housing oversight agreements with the mortgage finance authority.

(21) DEPARTMENT OF FINANCE

AND ADMINISTRATION: 1,200.0 1,200.0

For Roswell air service, contingent on a revenue guarantee contract with an airline.

~~(22) DEPARTMENT OF FINANCE~~

~~AND ADMINISTRATION: 75.0 75.0~~

~~For a southeast heights business incubator in Bernalillo county.~~

(23) DEPARTMENT OF FINANCE

AND ADMINISTRATION: 200.0 200.0

For the mid-region council of governments to study a regional jail system and alternatives to incarceration.

~~(24) DEPARTMENT OF FINANCE~~

~~AND ADMINISTRATION: 100.0 100.0~~

~~For nontechnology businesses in New Mexico outside the Albuquerque, Santa Fe and Los Alamos areas.~~

(25) GENERAL SERVICES DEPARTMENT:

The appropriation made from the property control reserve fund to the capital program fund pursuant to Section 33 of Chapter 23 of Laws 2000 (2nd S.S.), as amended, to relocate state agencies currently housed in the La Villa Rivera building and Marian hall is increased to ten million six hundred thousand dollars (\$10,600,000) for interim lease costs and relocation of the public regulation commission.

(26) PUBLIC DEFENDER DEPARTMENT:

The period of time for expending the three hundred thousand dollars (\$300,000) appropriated from the general fund in Subsection 26 of Section 5 of Chapter 33 of Laws 2005 for providing a fee structure for contracting representation of defendants in death penalty cases as extended by Subsection 26 of Section 5 of Chapter 109 of Laws 2006 is extended through fiscal year 2008.

(27) PUBLIC DEFENDER DEPARTMENT:

The period of time for expending the two hundred fifty thousand dollars (\$250,000) appropriated from the general fund in Subsection 25 of Section 5 of Chapter 109 of Laws 2006 for litigation expenses related to drug cartel case defense is extended through fiscal year 2008.

(28) PUBLIC DEFENDER DEPARTMENT:

The period of time for expending the eight hundred seventy thousand dollars (\$870,000) appropriated from the general fund in Subsection 27 of Section 5 of Chapter 114 of Laws 2004 for criminal cases related to the Santa Rosa prison riot cases as extended by Subsection 27 of Section 5 of Chapter 33 of Laws 2005 as extended by Subsection 24 of Section 5 of Chapter 109 of Laws 2006 is extended through fiscal year 2008.

(29) SECRETARY OF STATE: 2,500.0 2,500.0

For the 2008 primary election.

~~(30) SECRETARY OF STATE: 20.0 20.0~~

~~For a Native American voters conference.~~

(31) SPORTS AUTHORITY: 200.0 200.0

For a ladies professional golf association event at Elephant Butte state park.

(32) SPORTS AUTHORITY: 120.0 120.0

To host and promote national and international sporting events in New Mexico.

(33) TOURISM DEPARTMENT: 500.0 500.0

For advertising market expansion programs, including the New Mexico bowl and rose bowl campaigns.

(34) TOURISM DEPARTMENT: 25.0 25.0

To promote the tenth anniversary of the Georgia O'Keeffe Museum in Santa Fe.

(35) TOURISM DEPARTMENT: 50.0 50.0

For the tour of the Gila bicycle race.

(36) ECONOMIC DEVELOPMENT DEPARTMENT: 125.0 125.0

For the rural development response council.

(37) ECONOMIC DEVELOPMENT DEPARTMENT: 100.0 100.0

For the association of film commissioners international annual conference in Santa Fe, New Mexico, in fall 2007.

(38) ECONOMIC DEVELOPMENT DEPARTMENT: 750.0 750.0

For operations of the X-prize cup.

(39) ECONOMIC DEVELOPMENT DEPARTMENT: 400.0 400.0

For the manufacturing extension partnership.

(40) REGULATION AND LICENSING DEPARTMENT: 120.0 120.0

For a mannequin simulator for the anesthesia certification testing process for the board of dental health care.

(41) PUBLIC REGULATION COMMISSION: 50.0 50.0

For cohesive integration of agency rulemaking.

(42) PUBLIC REGULATION COMMISSION: 246.0 53.5 299.5

For enhancements to information technology systems, software and facilities, contingent on the information technology project plan being approved by the office of the chief information officer.

(43) PUBLIC REGULATION COMMISSION: 140.0 140.0

For replacement of a pump system at the firefighting training academy.

(44) CULTURAL AFFAIRS DEPARTMENT: 40.0 40.0

For the American Indian arts summer film and television workshop.

~~(45) CULTURAL AFFAIRS DEPARTMENT: 25.0 25.0~~

~~For film festivals in various New Mexico communities, no one of which will receive more than five thousand dollars (\$5,000) in assistance.~~

(46) CULTURAL AFFAIRS DEPARTMENT: 100.0 100.0

For the historic preservation loan fund.

(47) CULTURAL AFFAIRS DEPARTMENT: 85.0 85.0

For conducting a conditions assessment and preparing recommendations for twenty-four sites identified in the federal Galisteo Basin Archaeological Sites Protection Act.

~~(48) CULTURAL AFFAIRS DEPARTMENT: 175.0 175.0~~

~~For an international indigenous environmental film festival.~~

(49) NEW MEXICO LIVESTOCK BOARD: 100.0 100.0

For identification, containment and treatment of bovine tuberculosis.

(50) DEPARTMENT OF GAME AND FISH: 300.0 300.0

For completion of a master plan for the Pecos canyon area in San Miguel, Santa Fe and Mora counties.

(51) ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT:

The period of time for expending the three hundred thousand dollars (\$300,000) appropriated from the general fund in Subsection 53 of Section 5 of Chapter 33 of Laws 2005 for acquisition and planning at Shakespeare ghost town state park as extended by Subsection 52 of Section 5 of Chapter 109 of Laws 2006 is extended through fiscal year 2008 or for capital improvements or land acquisition at Pancho Villa, rockhound, city of rocks, or Percha state parks.

(52) ENERGY, MINERALS AND

NATURAL RESOURCES DEPARTMENT: 25.0 25.0

For Clayton state park for a special archaeological program contract.

(53) ENERGY, MINERALS AND

NATURAL RESOURCES DEPARTMENT: 500.0 500.0

For the renewable energy transmission authority operational fund contingent on enactment of House Bill 188 or similar legislation of the first session of the forty-eighth legislature.

(54) COMMISSIONER OF PUBLIC LANDS: 500.0 500.0

For asset inventory and remediation projects for state trusts lands.

~~(55) STATE ENGINEER: 945.0 945.0~~

~~For Gila basin water development.~~

(56) COMMISSION ON THE STATUS OF WOMEN: 14.0 14.0

For the 2008 meeting of the national association of commissions for women.

(57) OFFICE OF AFRICAN AMERICAN AFFAIRS: 5.0 5.0

To upgrade three computers.

(58) INDIAN AFFAIRS DEPARTMENT: 50.0 50.0

To designate a reburial ground for unmarked human remains.

(59) HUMAN SERVICES DEPARTMENT: 402.5 728.9 1,131.4

For updates to information technology systems related to changes in the federal temporary assistance for needy families program.

(60) HUMAN SERVICES DEPARTMENT: 150.0 150.0

For technical support for local behavioral health collaboratives, including tribes.

(61) HUMAN SERVICES DEPARTMENT: 1,350.0 1,350.0

To meet federal payment reduction in the food stamp program.

(62) HUMAN SERVICES DEPARTMENT: 6,000.0 6,000.0

For the low-income heating assistance program for fiscal year 2007.

(63) OFFICE OF WORKFORCE TRAINING

AND DEVELOPMENT: 400.0 400.0

For the career clusters initiative.

(64) OFFICE OF WORKFORCE TRAINING  
AND DEVELOPMENT: 250.0 250.0

For family opportunity accounts.

(65) GOVERNOR'S COMMISSION  
ON DISABILITY: 100.0 100.0

For quality of life programs for people with disabilities.

(66) DEVELOPMENTAL DISABILITIES  
PLANNING COUNCIL: 250.0 250.0

For attorney and guardianship services.

(67) DEPARTMENT OF HEALTH: 200.0 200.0

For start-up costs of a developmental disability and autism respite center in Albuquerque.

(68) DEPARTMENT OF HEALTH:

Any unexpended balances from revenue received for the newborn infant screening program remaining at the end of fiscal year 2007 shall not revert and are appropriated to the department of health for expenditure in fiscal year 2008 for costs associated with the program.

(69) DEPARTMENT OF HEALTH:

The period of time for expending the seven hundred fifty thousand dollars (\$750,000) appropriated from the general fund in Subsection 80 of Section 5 of Chapter 109 of Laws 2006 for equipment, wiring and first-year telecommunication service provider fees to provide telehealth services to school-based health centers and rural health clinics is extended through fiscal year 2008.

(70) DEPARTMENT OF HEALTH:

The period of time for expending the five hundred thousand dollars (\$500,000) appropriated from the general fund in Subsection 77 of Section 5 of Chapter 109 of Laws 2006 for adult influenza vaccine is extended through fiscal year 2008.

(71) DEPARTMENT OF HEALTH: 50.0 50.0

For a mercury study.

(72) DEPARTMENT OF HEALTH: 50.0 50.0

For community-based cancer patient support services statewide.

(73) DEPARTMENT OF HEALTH: 1,000.0 1,000.0

For purchase of anti-viral medication for pandemic flu.

(74) DEPARTMENT OF HEALTH: 100.0 100.0

For screening, brief intervention, brief treatment and referral to more intensive treatment for persons at risk for dependence on alcohol or drugs.

(75) DEPARTMENT OF HEALTH: 350.0 350.0

To contract with a nonprofit organization for expansion of the health information exchange network.

~~(76) DEPARTMENT OF HEALTH: 100.0 100.0~~

~~To support alternative medicine in Albuquerque.~~

(77) DEPARTMENT OF ENVIRONMENT: 295.0 295.0

For the cleanup agreement of the Terrero mine site.

(78) DEPARTMENT OF ENVIRONMENT: 200.0 200.0

For replacement of federal funds relating to administering the clean water state revolving loan fund.

(79) OFFICE OF THE NATURAL

RESOURCES TRUSTEE: 500.0 500.0

For creation of a revolving fund for natural resource damage assessments.

(80) VETERANS' SERVICE DEPARTMENT: 350.0 350.0

For the early detection of lung cancer for veterans.

(81) CHILDREN, YOUTH AND

FAMILIES DEPARTMENT: 98.3 98.3

For domestic violence program oversight statewide.

(82) CHILDREN, YOUTH AND FAMILIES DEPARTMENT:

The period of time for expending the one hundred thousand dollars (\$100,000) appropriated from the general fund in Subsection 16 of Section 26 of Chapter 110 of Laws 2006 for a domestic violence shelter in Shiprock, New Mexico, is extended through fiscal year 2008.

(83) CHILDREN, YOUTH AND FAMILIES DEPARTMENT:

The period of time to expend one million dollars (\$1,000,000) appropriated from the general fund in Subsection 86 of Section 5 of Chapter 109 of Laws 2006 to match the Los Alamos national laboratory foundation home visiting efforts is extended through fiscal year 2008.

(84) CHILDREN, YOUTH AND

FAMILIES DEPARTMENT: 50.0 50.0

For the heart gallery program.

(85) DEPARTMENT OF MILITARY AFFAIRS:

The period of time for expending the one million one hundred eighty-one thousand one hundred dollars (\$1,181,100) appropriated from the general fund in Subsection 89 of Section 5 of Chapter 109 of Laws 2006 for the service members' life insurance reimbursement fund is extended through fiscal year 2008.

(86) CORRECTIONS DEPARTMENT: 705.4 705.4

For video conferencing telecommunications.

~~(87) DEPARTMENT OF PUBLIC SAFETY: 1,100.0 1,100.0~~

~~For digital video recording.~~

(88) DEPARTMENT OF PUBLIC SAFETY: 850.0 850.0

For rewiring of state police district offices statewide.

(89) DEPARTMENT OF PUBLIC SAFETY: 131.8 131.8

For additional operating expenses of the crime laboratory.

(90) DEPARTMENT OF PUBLIC SAFETY: 1,400.0 1,400.0

For overtime for commissioned officers, information technology software, maintenance agreements and desktop computer replacement and for homeland security purposes in counties that border Mexico. Disbursement shall be subject to certification by the department of public safety to the department of finance and administration and the legislative finance committee that no other funds are available in fiscal years 2007 and 2008 for the purpose specified and approval by the department of finance and administration.

(91) DEPARTMENT OF PUBLIC SAFETY: 500.0 500.0

For payment of a board of finance loan for construction of temporary forensic laboratory offices contingent on conversion to grants of loans to Torrance county and the fifth judicial district court.

(92) DEPARTMENT OF TRANSPORTATION:

The other state funds and federal funds appropriations to the programs and infrastructure program of the department of transportation for expenditure in prior fiscal years may be extended into fiscal year 2008 but not to exceed three hundred twenty million dollars (\$320,000,000).

(93) DEPARTMENT OF TRANSPORTATION:

The other state funds and federal funds appropriations to the transportation and highway operations program of the department of transportation for expenditure in prior fiscal years may be extended into fiscal year 2008 but not to exceed eighty million dollars (\$80,000,000).

~~(94) PUBLIC EDUCATION DEPARTMENT: 100.0 100.0~~

~~For the state high school basketball tournament.~~

~~(95) PUBLIC EDUCATION DEPARTMENT: 150.0 150.0~~

~~For a public education needs assessment and study of funding options for school security improvements. The appropriation is from the separate account of the appropriation contingency fund dedicated for the purpose of implementing and maintaining educational reforms created in Section 12 of Chapter 114 of Laws 2004.~~

(96) PUBLIC EDUCATION DEPARTMENT: 175.0 175.0

For a summer camp program in Santa Fe.

(97) PUBLIC EDUCATION DEPARTMENT: 500.0 500.0

For special education alternative assessment and test development. The appropriation is from the separate account of the appropriation contingency fund dedicated for the purpose of implementing and maintaining educational reforms created in Section 12 of Chapter 114 of Laws 2004.

(98) PUBLIC EDUCATION DEPARTMENT: 150.0 150.0

For New Mexico executive educator turnaround specialists with training to be conducted in New Mexico. The appropriation is from the separate account of the appropriation contingency fund dedicated for the purpose of implementing and maintaining educational reforms created in Section 12 of Chapter 114 of Laws 2004.

(99) PUBLIC EDUCATION DEPARTMENT: 1,050.0 1,050.0

For regional education cooperatives temporary cash flow assistance. The public education department may advance amounts to one or more regional cooperatives on a finding that the cooperative has submitted timely quarterly financial reports, is in compliance with state and federal financial reporting requirements, is otherwise financially stable and has adequately justified a need for the cash advance. Notwithstanding provisions of Subsection 113 of Section 5 of Chapter 109 of Laws 2006, the public education department may allow a regional education cooperative to retain cash advances beyond June 30, 2007, if the regional education cooperative justifies a need for not returning cash advances. The governing board of each regional education cooperative shall prepare a plan to address cash flow issues and submit such plan to the public education department for approval. All cash advances granted to regional education cooperatives shall be returned to the public education department by June 30, 2009. Any funds returned to the public education department shall not revert to the general fund and shall remain available for advances to regional education cooperatives.

(100) PUBLIC EDUCATION DEPARTMENT: 400.0 400.0

For school breakfasts for elementary students.

(101) PUBLIC EDUCATION DEPARTMENT: 6,300.0 6,300.0

For supplemental support of school districts experiencing shortfalls in operating budgets.

(102) PUBLIC EDUCATION DEPARTMENT: 1,500.0 1,500.0

For the eleventh grade exit examination. The appropriation is from the separate account of the appropriation contingency fund dedicated for the purpose of implementing and maintaining educational reforms created in Section 12 of Chapter 114 of Laws 2004.

(103) PUBLIC EDUCATION DEPARTMENT: 250.0 250.0

For the New Mexico outdoor classroom initiative. The appropriation is from the separate account of the appropriation contingency fund dedicated for the purpose of implementing and maintaining educational reforms created in Section 12 of Chapter 114 of Laws 2004.

(104) PUBLIC EDUCATION DEPARTMENT: 1,000.0 1,000.0

For transfer to the state equalization guarantee to offset reductions in federal impact aid credits.

(105) PUBLIC EDUCATION DEPARTMENT: 1,000.0 1,000.0

For transfer to the state support reserve fund.

(106) HIGHER EDUCATION DEPARTMENT: 65.0 65.0

To conduct thorough research on the current demographics of New Mexico alumni of the American Indian graduate center.

(107) HIGHER EDUCATION DEPARTMENT: 200.0 200.0

For the engaging Latino communities for education program.

(108) HIGHER EDUCATION DEPARTMENT: 41,000.0 41,000.0

To provide a one-time supplement for addressing the backlog of deferred maintenance at public, post-secondary institutions and special schools of which ~~twenty million five hundred thousand dollars (\$20,500,000)~~ is to be distributed according to the building renewal and replacement formula and ~~twenty million five hundred thousand dollars (\$20,500,000)~~ is to be distributed based on the facility condition index.

(109) HIGHER EDUCATION DEPARTMENT: 2,668.4 2,668.4

For certain higher education institutions to be held harmless from funding formula reductions for fiscal year 2008 related to declining enrollment.

(110) HIGHER EDUCATION DEPARTMENT: 500.0 500.0

For the technology research collaborative.

(111) HIGHER EDUCATION DEPARTMENT: 48,000.0 48,000.0

To the college affordability endowment fund, contingent on investment of forty-six million dollars (\$46,000,000) by the state investment council, and transfer of two million dollars (\$2,000,000) to the college affordability scholarship fund.

~~(112) UNIVERSITY OF NEW MEXICO: 120.0 120.0~~

~~For college preparatory mentoring for eighth graders in Albuquerque public schools.~~

(113) UNIVERSITY OF NEW MEXICO: 230.0 230.0

For the film and digital media program.

(114) UNIVERSITY OF NEW MEXICO: 1,000.0 1,000.0

For the Lovelace respiratory research institute. The appropriation is from the tobacco settlement program fund.

(115) UNIVERSITY OF NEW MEXICO: 30.0 30.0

For the alliance for transportation institute to continue environmental and health research demonstration projects.

~~(116) UNIVERSITY OF NEW MEXICO: 25.0 25.0~~

~~For the Native American foundation.~~

(117) UNIVERSITY OF NEW MEXICO: 20.0 20.0

For the natural high program.

~~(118) UNIVERSITY OF NEW MEXICO: 50.0 50.0~~

~~For the regional studies program.~~

(119) UNIVERSITY OF NEW MEXICO: 118.0 118.0

For nursing education at the university of New Mexico-Gallup.

(120) UNIVERSITY OF NEW MEXICO: 2,200.0 2,200.0

To the health sciences center for medical equipment related to cancer research. The appropriation is from the tobacco settlement program fund.

~~(121) UNIVERSITY OF NEW MEXICO: 25.0 25.0~~

~~For the inter-American cooperation and development program.~~

(122) UNIVERSITY OF NEW MEXICO:

The recipient of the appropriation in Subsection 3 of Section 26 of Chapter 347 of Laws 2005 for a six- to nine-month long term substance abuse and alcohol treatment rehabilitation program at the westside

correctional facility in Albuquerque in Bernalillo county is changed to the university of New Mexico. No more than five percent of the appropriation may be used for administration by the university.

(123) UNIVERSITY OF NEW MEXICO:

Any unexpended balances remaining in the university of New Mexico's flow-through account from appropriations made prior to July 1, 1991, shall revert to the general fund on July 1, 2007.

(124) NEW MEXICO STATE UNIVERSITY: 500.0 500.0

For the cooperative extension service for research, development and other costs related to the automation of chile harvesting. The appropriation may be expended in fiscal years 2007 through 2009. Any unexpended balance at the end of fiscal year 2009 shall revert to the general fund.

(125) NEW MEXICO STATE UNIVERSITY: 30.0 30.0

For the board of regents at New Mexico state university for administering renewable energy development programs at the New Mexico department of agriculture.

(126) NEW MEXICO STATE UNIVERSITY: 280.7 280.7

For handheld devices for agricultural inspections.

(127) NEW MEXICO STATE UNIVERSITY: 500.0 500.0

For the board of regents at New Mexico state university for the acequia and community ditch fund administered by the New Mexico department of agriculture.

(128) NEW MEXICO STATE UNIVERSITY: 500.0 500.0

~~For the soil and water conservation commission~~ to manage and administer non-native phreatophyte removal and riparian restoration according to the non-native phreatophyte watershed management plan program.

(129) NEW MEXICO HIGHLANDS UNIVERSITY:

Any unexpended balances of the appropriations from the operating reserve fund in Chapter 35 of Laws 1984 remaining at the end of fiscal year 2007 shall revert to the general fund operating reserve.

(130) WESTERN NEW MEXICO UNIVERSITY:

Any unexpended balances of the appropriations from the operating reserve fund in Chapter 35 of Laws 1984 remaining at the end of fiscal year 2007 shall revert to the general fund operating reserve.

(131) EASTERN NEW MEXICO UNIVERSITY:

Any unexpended balances of the appropriations from the operating reserve fund in Chapter 35 of Laws 1984 remaining at the end of fiscal year 2007 shall revert to the general fund operating reserve.

(132) NEW MEXICO INSTITUTE OF

MINING AND TECHNOLOGY: 400.0 400.0

For the petroleum research recovery center to supplement federal grants for oil and gas drilling research and development.

(133) NORTHERN NEW MEXICO COLLEGE: 1,000.0 1,000.0

For teacher education programs and start-up funding.

(134) COMPUTER SYSTEMS

ENHANCEMENT FUND: 26,700.0 26,700.0

For transfer to the computer systems enhancement fund for system replacements or enhancements.

(135) COMPUTER SYSTEMS

ENHANCEMENT FUND: 2,500.0 2,500.0

For education information technology systems projects. The appropriation is from the separate account of the appropriation contingency fund dedicated to the purpose of implementing and maintaining educational reforms created in Section 12 of Chapter 114 of Laws 2004.

**TOTAL SPECIAL APPROPRIATIONS** 168,340.1 4,751.7 728.9 173,820.7

## Chapter 28 Section 6 Laws 2007

**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 2007 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 2007 for the purpose specified and approval by the department of finance and administration. Any unexpended balances remaining at the end of fiscal year 2007 shall revert to the appropriate fund.

(1) JUDICIAL STANDARDS COMMISSION: 30.0 30.0

For replacement of revenue not collectible in fiscal year 2007.

(2) ADMINISTRATIVE OFFICE OF THE COURTS: 35.0 35.0

For shortfalls in the judges pro tempore fund.

(3) FOURTH JUDICIAL DISTRICT COURT: 2.9 2.9

For a shortfall from overspending revenue from tape and copy duplication.

(4) TENTH JUDICIAL DISTRICT ATTORNEY: 26.8 26.8

To pay risk management for civil rights.

(5) ADMINISTRATIVE OFFICE OF

THE DISTRICT ATTORNEYS: 1,700.0 1,700.0

For repayment of the questioned costs resulting from the United States office of the inspector general audit of the southwest border prosecution initiative funds administered by the department of public safety. The administrative office of the district attorneys shall not disburse any funds until final resolution of the questioned costs has been obtained by the department of public safety from the United States department of justice.

(6) DEPARTMENT OF FINANCE

AND ADMINISTRATION: 500.0 500.0

To assist state agencies with increased costs from revised rates assessed by the information systems division of the general services department for information processing services, ~~with review by the legislative finance committee.~~

(7) SECRETARY OF STATE: 3,150.0 3,150.0

For costs associated with the 2006 general election, contingent on department of finance and administration review and board of finance approval.

(8) STATE TREASURER: 60.0 60.0

For costs of continuing to operate the treasurer's reconciliation accounting and cashiering system.

~~(9) STATE TREASURER: 38.5 38.5~~

~~For unanticipated fiscal year 2005 audit costs and prior year general services department debt.~~

(10) STATE RACING COMMISSION: 22.3 22.3

For a shortfall in personal services and employee benefits carried over from fiscal year 2005.

(11) CULTURAL AFFAIRS DEPARTMENT: 70.0 70.0

For utilities costs at the New Mexico museum of space history.

(12) NEW MEXICO LIVESTOCK BOARD: 50.0 50.0

For inspection of animal cruelty.

(13) NEW MEXICO LIVESTOCK BOARD: 9.6 9.6

For travel costs for meat inspections.

(14) MARTIN LUTHER KING, JR. COMMISSION: 14.8 14.8

For costs incurred in fiscal year 2006 for the Martin Luther King, Jr. youth conference.

(15) MARTIN LUTHER KING, JR. COMMISSION: 14.4 14.4

For costs associated with the Martin Luther King, Jr. youth conference.

(16)	HUMAN SERVICES DEPARTMENT:	773.7	480.4	1,254.1
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For additional caseload in the general assistance program.

(17)	LABOR DEPARTMENT:	500.0		500.0
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For compensation increases provided for in Laws 2006.

(18)	DEPARTMENT OF HEALTH:	500.0		500.0
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For costs associated with replenishing receivership funding.

(19)	DEPARTMENT OF HEALTH:	11,400.0		11,400.0
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For shortfalls in the developmental disabilities waiver program.

(20)	CHILDREN, YOUTH AND FAMILIES DEPARTMENT:	3,000.0		3,000.0
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For replacement of federal funds in the protective services program. Of this appropriation, one million dollars (\$1,000,000) is contingent on adoption of federal medicaid targeted-case-management rules.

(21)	CHILDREN, YOUTH AND FAMILIES DEPARTMENT:	1,700.0		1,700.0
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For personal services and employee benefits and costs associated with the transition of the New Mexico boys' school.

(22)	CORRECTIONS DEPARTMENT:	4,000.0		4,000.0
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For budget shortfalls, including those related to private prison costs and medical care.

(23)	PUBLIC EDUCATION DEPARTMENT:	120.0		120.0
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For specialized legal services.

**TOTAL SUPPLEMENTAL AND**

<b>DEFICIENCY APPROPRIATIONS</b>		27,718.0	480.4	28,198.4
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## **Chapter 28 Section 7 Laws 2007**

**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 2007 and 2008. Unless otherwise indicated, any unexpended balances remaining at the end of fiscal year 2008 shall revert to the computer systems enhancement fund or other funds as indicated. The department of finance and



identified at the conclusion of the previously funded needs assessment. The period of time for expending the seven hundred fifty thousand dollars (\$750,000) appropriated from the computer systems enhancement fund contained in Subsection 3 of Section 7 of Chapter 33 of Laws 2005 as extended by Subsection 4 of Section 7 of Chapter 109 of Laws 2006 for the motor vehicle division to complete the planning and modeling phases of the motor vehicle division systems re-engineering project is extended through fiscal year 2008. This appropriation includes two term full-time-equivalent positions. The project deliverables shall be aligned with changes to motor vehicle division statutes.

(7) TAXATION AND REVENUE DEPARTMENT: 500.0 500.0

To plan the replacement of the oil and natural gas accounting revenue database, including due diligence visits to other locations.

(8) GENERAL SERVICES DEPARTMENT: 2,300.0 2,300.0

To replace the claims management system, implement a medical benefits data warehouse and plan and implement enterprise content management.

(9) GENERAL SERVICES DEPARTMENT: 1,500.0 1,500.0

To implement a trusted state network to authenticate users.

(10) GENERAL SERVICES DEPARTMENT: 2,000.0 2,000.0

To continue the analog-to-digital microwave tower constructions and necessary upgrades in the remaining parts of the state. The general services department shall provide monthly status reports to ~~the legislative finance committee and the~~ the office of the chief information officer.

(11) GENERAL SERVICES DEPARTMENT:

The period of time for expending the four million eight hundred thousand dollars (\$4,800,000) appropriated from the computer systems enhancement fund contained in Subsection 6 of Section 7 of Chapter 109 of Laws 2006 to continue telecommunication infrastructure in the southeast quadrant of New Mexico is extended through fiscal year 2008. The bandwidth shall be of sufficient capacity to accommodate distance education, telehealth services and corrections department needs. The general services department shall serve as lead agency for this project. Funding is contingent on submission of a telecommunications architecture plan by the general services department to the information technology commission, ~~information technology oversight committee, legislative finance committee~~ and department of finance and administration. The telecommunications architecture plan shall be in accordance with the state information architecture, information technology consolidation plan and enterprisewide information security program and shall be approved by the office of the chief information officer. The telecommunications architecture plan shall include a cost and savings analysis by agency. The state-owned digital microwave telecommunications system shall be used at all possible locations to enhance statewide telecommunications and leverage state-owned resources without incurring additional costs. The general services department shall provide monthly, written status reports to the office of the chief information officer. Funds for this appropriation shall not be used to pay for contracted consultant services. Funds for this appropriation shall be limited to the purchase of telecommunications circuits and related hardware and software in accordance with the telecommunications architecture plan.

(12) EDUCATIONAL RETIREMENT BOARD:

The period of time for expending the seven hundred fifty thousand dollars (\$750,000) from the educational retirement fund contained in Subsection 7 of Section 7 of Chapter 109 of Laws 2006 to

address unplanned legislative changes and upgrade servers is extended through fiscal year 2008. The period of time for expending the three hundred thousand dollars (\$300,000) appropriated from the educational retirement fund contained in Subsection 5 of Section 7 of Chapter 33 of Laws 2005 as extended by Subsection 7 of Section 7 of Chapter 109 of Laws 2006 to complete the replacement of the educational retirement accounting system used to administer retirement benefits for educational employees of the state of New Mexico is extended through fiscal year 2008. The period of time for expending the two million dollars (\$2,000,000) appropriated from the educational retirement fund contained in Subsection 11 of Section 7 of Chapter 4 of Laws 2002 (1st E.S.) as extended by Subsection 7 of Section 7 of Chapter 76 of Laws 2003 as extended by Subsection 16 of Section 8 of Chapter 114 of Laws 2004 as extended by Subsection 5 of Section 7 of Chapter 33 of Laws 2005 as extended by Subsection 7 of Section 7 of Chapter 109 of Laws 2006 is extended through fiscal year 2008, and the period of time for expending the seven hundred fifty thousand dollars (\$750,000) appropriated from the educational retirement fund contained in Subsection 16 of Section 8 of Chapter 114 of Laws 2004 as extended by Subsection 5 of Section 7 of Chapter 33 of Laws 2005 as extended by Subsection 7 of Section 7 of Chapter 109 of Laws 2006 to complete implementation of a commercial off-the-shelf solution for managing educational retirement membership information is extended through fiscal year 2008. The educational retirement board shall provide a close-out report, including release of contract retainage to the legislative finance committee and the office of the chief information officer.

(13) STATE COMMISSION OF PUBLIC RECORDS:

The period of time for expending the one hundred thirty thousand dollars (\$130,000) appropriated from the computer systems enhancement fund contained in Subsection 10 of Section 7 of Chapter 109 of Laws 2006 to replace the disk operating system-based archives records management system with a commercial off-the-shelf solution is extended through fiscal year 2008.

(14) SECRETARY OF STATE:

The period of time for expending the one hundred twelve thousand dollars (\$112,000) appropriated from the computer systems enhancement fund contained in Subsection 10 of Section 7 of Chapter 33 of Laws 2005 as extended by Subsection 11 of Section 7 of Chapter 109 of Laws 2006 to complete the implementation of trademark, agricultural lien and campaign reporting modules of the secretary of state knowledgebase application is extended through fiscal year 2008.

(15) REGULATION AND LICENSING DEPARTMENT: 117.4 117.4

To upgrade license 2000 for real estate commission needs. The appropriation is from the real estate commission fund.

~~(16) STATE ENGINEER: 300.0 300.0~~

~~To plan for business process and technical reengineering of the water administration technical engineering resource system, including electronic content management.~~

(17) AGING AND LONG-TERM

SERVICES DEPARTMENT: 400.0 400.0

To implement an adult protective services system.

(18) HUMAN SERVICES DEPARTMENT:

The period of time for expending the one million two hundred thousand dollars (\$1,200,000) appropriated from the computer systems enhancement fund and the eight hundred thousand dollars (\$800,000) in federal funds contained in Subsection 6 of Section 8 of Chapter 114 of Laws 2004 as extended by Subsection 18 of Section 7 of Chapter 33 of Laws 2005 as extended by Subsection 15 of Section 7 of Chapter 109 of Laws 2006 for implementing a multi-agency system for imaging and archiving documents electronically to improve access, integration and accuracy of information is extended through fiscal year 2008. The human services department shall serve as lead agency using a multi-agency steering committee composed of, at a minimum, the state commission of public records and the taxation and revenue department. The portion of this appropriation related to the human services department is contingent on receiving written approval from the federal funding agency.

(19) HUMAN SERVICES DEPARTMENT: 2,000.0 2,000.0

To consolidate the eligibility determination across state agencies, including screening, intake, application processing, assessment, scheduling and referrals.

(20) HUMAN SERVICES DEPARTMENT:

The period of time for expending the seven million eight hundred thousand dollars (\$7,800,000) appropriated from the computer systems enhancement fund and the four million five hundred thousand dollars (\$4,500,000) in federal funds contained in Subsection 4 of Section 7 of Chapter 76 of Laws 2003 as extended by Subsection 15 of Section 8 of Chapter 114 of Laws 2004 as extended by Subsection 17 of Section 7 of Chapter 33 of Laws 2005 as extended by Subsection 16 of Section 7 of Chapter 109 of Laws 2006 to enable healthcare and human services agencies to comply with the federal Health Insurance Portability and Accountability Act information security rules is extended through fiscal year 2008. The period of time for expending the seven hundred thousand dollars (\$700,000) appropriated from the general fund and the two million one hundred thousand dollars (\$2,100,000) in federal funds contained in Subsection 13 of Section 6 of Chapter 76 of Laws 2003 as extended by Subsection 25 of Section 8 of Chapter 114 of Laws 2004 as extended by Subsection 17 of Section 7 of Chapter 33 of Laws 2005 as extended by Subsection 16 of Section 7 of Chapter 109 of Laws 2006 for the medical assistance program for computer system enhancements to enable healthcare and human services agencies to comply with the federal Health Insurance Portability and Accountability Act information security rules is extended through fiscal year 2008.

(21) HUMAN SERVICES DEPARTMENT: 1,500.0 4,500.0 6,000.0

To continue the replacement of the income support division computer system.

(22) HUMAN SERVICES DEPARTMENT:

The period of time for expending the one million dollars (\$1,000,000) appropriated from the computer systems enhancement fund and the six million two hundred thousand dollars (\$6,200,000) in federal funds contained in Subsection 16 of Section 7 of Chapter 33 of Laws 2005 as extended by Subsection 17 of Section 7 of Chapter 109 of Laws 2006 to convert the current human services systems into the layered structure specified in the social services architecture plan is extended through fiscal year 2008. This appropriation includes two term full-time-equivalent positions. This appropriation is contingent on a written and approved social services architecture plan and a federally approved advance planning document.

(23) LABOR DEPARTMENT:

The period of time for expending the three million five hundred thousand dollars (\$3,500,000) from the Job Creation and Worker Assistance Act of 2002 and Section 903 of the Social Security Act, as amended, also known as the federal Reed Act, and made available to the New Mexico labor department in Subsection 21 of Section 7 of Chapter 33 of Laws 2005 as extended by Subsection 18 of Section 7 of

Chapter 109 of Laws 2006 to meet federal accounting and reporting requirements not addressed by the base component of the statewide human resources, accounting and managerial reporting system project is extended through fiscal year 2008. The period of time for expending the re-appropriated twelve million five hundred thousand dollars (\$12,500,000) in unexpended federal Reed Act funds contained in Subsection 13 of Section 7 of Chapter 76 of Laws 2003 as extended by Subsection 20 of Section 7 of Chapter 33 of Laws 2005 as extended by Subsection 19 of Section 7 of Chapter 109 of Laws 2006 is extended through fiscal year 2009 and re-appropriated to complete the implementation of the unemployment insurance tax system. The period of time for expending the six hundred thousand dollars (\$600,000) in federal Reed Act and Job Creation and Worker Assistance Act of 2002 funds contained in Subsection 15 of Section 7 of Chapter 76 of Laws 2003 as extended by Subsection 20 of Section 7 of Chapter 33 of Laws 2005 as extended by Subsection 19 of Section 7 of Chapter 109 of Laws 2006 to replace a document scanning system used for unemployment tax administration is extended through fiscal year 2009 and re-appropriated for an electronic document management system for unemployment insurance administration to implement the debit card payment function, to enhance interactive voice recognition call center processing functions and to improve processes.

(24) DEPARTMENT OF HEALTH: 500.0 500.0

For implementation of electronic medical records at rural private practice sites and clinics funded by the Rural Primary Health Care Act and to expand site connections with the health information exchange collaborative contingent on a dollar-for-dollar match.

(25) DEPARTMENT OF HEALTH:

The period of time for expending the one million dollars (\$1,000,000) appropriated from the computer systems enhancement fund and the nine hundred thousand dollars (\$900,000) in federal funds contained in Subsection 23 of Section 7 of Chapter 33 of Laws 2005 as extended by Subsection 20 of Section 7 of Chapter 109 of Laws 2006 to implement a single, integrated laboratory information management system is extended through fiscal year 2008. This appropriation is contingent on a written and approved social services architecture plan.

(26) DEPARTMENT OF HEALTH:

The period of time for expending the one million dollars (\$1,000,000) appropriated from the computer systems enhancement fund contained in Subsection 27 of Section 8 of Chapter 114 of Laws 2004 as extended by Subsection 24 of Section 7 of Chapter 33 of Laws 2005 as extended by Subsection 23 of Section 7 of Chapter 109 of Laws 2006 is extended through fiscal year 2008 to implement an electronic web-enabled vital records system to enhance turnaround time for producing birth and death certificates and enhance quality of data submitted to federal contract agencies. This appropriation is contingent on publication of an analysis of commercial solutions available to support this request.

(27) CORRECTIONS DEPARTMENT:

The period of time for expending the three hundred thousand dollars (\$300,000) appropriated from the computer systems enhancement fund contained in Subsection 24 of Section 7 of Chapter 109 of Laws 2006 to convert and customize the booking module into tiers two and three is extended through fiscal year 2008. The period of time for expending the four hundred thousand dollars (\$400,000) appropriated from the computer systems enhancement fund contained in Subsection 29 of Section 8 of Chapter 114 of Laws 2004 as extended by Subsection 29 of Section 7 of Chapter 33 of Laws 2005 as extended by Subsection 24 of Section 7 of Chapter 109 of Laws 2006 to transition the criminal management information system to a web-based application developed through the national consortium of offender management systems is extended through fiscal year 2008. The system shall be designed to improve data collection, viewing and use by department constituents and other public safety, judicial and law enforcement entities. Funds for this appropriation shall be used to ensure knowledge transfer from the



To continue implementation of the student and teacher accountability reporting system. The appropriation is from the appropriation contingency fund dedicated for the purpose of implementing and maintaining educational reforms created in Section 12 of Chapter 114 of Laws 2004. The appropriation is contingent on the public education department reengineering its business processes before proceeding and expending additional funds and on the public education department developing and enforcing reporting compliance. The public education department shall provide monthly status reports to ~~the legislative finance committee and~~ the office of the chief information officer.

(33) HIGHER EDUCATION DEPARTMENT: 1,000.0 1,000.0

To consolidate banner licenses at all institutions of higher education.

(34) HIGHER EDUCATION DEPARTMENT: 6,400.0 6,400.0

To implement the innovative digital education and learning system for public and higher education, including partnering with regional education cooperatives and institutions of higher learning that already provide some form of distance learning. The appropriation is contingent on completion of a statewide cyber academy and distance learning plan before services are initiated. The higher education department shall provide monthly progress status reports, including funds expended, milestones achieved, number and location of distance learning sites and students served, to ~~the legislative finance committee, the legislative education study committee and~~ the office of the chief information officer.

<b>TOTAL DATA PROCESSING APPROPRIATIONS</b>	31,617.4	4,500.0
36,117.4		

## Chapter 28 Section 8 Laws 2007

### Section 8. COMPENSATION APPROPRIATIONS.--

A. Forty-two million seventy thousand three hundred dollars (\$42,070,300) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2008 to provide salary increases to employees in budgeted positions who have completed their probationary period subject to satisfactory or better job performance. The salary increases shall be effective the first pay period after July 1, 2007, and distributed as follows:

(1) nine hundred ninety-eight thousand five hundred dollars (\$998,500) to provide the justices of the supreme court; the chief justice of the supreme court; the chief judge of the court of appeals; judges of the court of appeals, district courts, metropolitan courts and magistrate courts; child support hearing officers; and special commissioners a salary increase of five percent;

(2) three million seven hundred sixty-two thousand nine hundred dollars (\$3,762,900) to provide all judicial permanent employees, other than employees whose salaries are set by statute, with an average five percent salary increase as determined by the administrative office of the courts in accordance with the judicial pay plan;

(3) eighty-three thousand nine hundred dollars (\$83,900) to provide a five percent salary increase for district attorneys;

(4) two million two hundred thirty-nine thousand dollars (\$2,239,000) to provide all district attorney permanent employees, other than elected district attorneys, with an average five percent salary increase as approved by the administrative office of the district attorney;

(5) twenty-four million three hundred sixty-three thousand two hundred dollars (\$24,363,200) to provide incumbents in agencies governed by the Personnel Act, other than commissioned officers of the department of public safety, with a two percent mid-point salary increase and then an average three percent compa-ratio adjustment as follows: employees with a compa-ratio of less than eighty-five percent shall receive a four and one-half percent salary increase, employees with a compa-ratio between eighty-five percent and ninety-three and ninety-nine hundredths percent shall receive a three and one-half percent increase, employees with a compa-ratio between ninety-four percent and one hundred four and ninety-nine hundredths percent shall receive a two and one-half percent salary increase and employees with a compa-ratio greater than one hundred five percent shall receive a one and one-half percent salary increase;

(6) two million eighty-five thousand two hundred dollars (\$2,085,200) to provide executive exempt employees, including attorney general employees and workers' compensation judges, with an average five percent salary increase;

(7) one million six hundred ninety-two thousand four hundred dollars (\$1,692,400) to provide all commissioned officers of the department of public safety with an average five percent general salary increase in accordance with the New Mexico state police career pay system and the Personnel Act as determined by the secretary of the department of public safety and the state personnel board. In lieu of the probationary requirements of Subsection A, commissioned officers of the New Mexico state police of the department of public safety who have completed one year of continuous service subject to satisfactory or better job performance are eligible for the salary increase in accordance with the New Mexico state police career system;

(8) three hundred ninety-six thousand four hundred dollars (\$396,400) to provide teachers in the department of health; corrections department; children, youth and families department; and the school for the blind with a five percent salary increase and for statutory minimum salaries for level three-A teachers;

(9) five hundred sixteen thousand eight hundred dollars (\$516,800) to provide permanent legislative employees, including permanent employees of the legislative council service, legislative finance committee, legislative education study committee, legislative building services, the house and senate, house and senate chief clerks' offices and house and senate leadership with an average five percent salary increase;

(10) two million seven hundred forty-one thousand seven hundred dollars (\$2,741,700) for an additional five percent salary increase for state classified adult

correctional officers, to include captains and majors, and attorneys of the public defender office;

(11) one million nine hundred seventy-eight thousand five hundred dollars (\$1,978,500) for an additional four percent increase for state employees classified as probation and parole officer, librarian, librarian assistant, librarian technician, livestock meat inspector, livestock inspector, dispatcher, security guard, forensic science technician-O, forensic science technician-A, highway maintainer or civil engineering technician-NL; department of health employees classified as chemist, microbiologist, life physical social science technician or medical scientist (except epidemiologist); and department of human services employees classified as child support enforcement officer, child support enforcement supervisor, family assistance analyst or family assistance analyst supervisor;

(12) one million one hundred three thousand seven hundred dollars (\$1,103,700) for an additional five percent increase for staff attorneys of the district attorneys as determined by a plan submitted by the administrative office of the district attorneys and reviewed by the legislative finance committee; and

(13) one hundred eight thousand one hundred dollars (\$108,100) to raise state classified employees to a minimum hourly rate of seven dollars and fifty cents per hour (\$7.50).

B. The following amounts are appropriated from the general fund to the higher education department for expenditure in fiscal year 2008 and the compensation increases shall be effective the first pay period after July 1, 2007:

(1) forty-one million five hundred twenty thousand five hundred dollars (\$41,520,500) to provide faculty and staff of four- and two-year postsecondary education institutions with an average five percent compensation increase; and

(2) six million two hundred twenty-eight thousand three hundred dollars (\$6,228,300) to provide a three-fourths percent increase in the employer contribution to the educational retirement fund.

C. The department of finance and administration shall distribute a sufficient amount to each

agency to provide the appropriate increases for those employees whose salaries are received as a result of the general fund appropriations in the General Appropriation Act of 2007. Any unexpended balance remaining at the end of fiscal year 2008 shall revert to the general fund.

D. For those state employees whose salaries are referenced in or received as a result of nongeneral fund appropriations in the General Appropriation Act of 2007, the department of finance and administration shall transfer from the appropriate

fund to the appropriate agency the amount required for the salary increases equivalent to those provided for in this section, and such amounts are appropriated for expenditure in fiscal year 2008. Any unexpended balance remaining at the end of fiscal year 2008 shall revert to the appropriate fund.

## **Chapter 28 Section 9 Laws 2007**

### **Section 9. ADDITIONAL FISCAL YEAR 2007 BUDGET ADJUSTMENT**

**AUTHORITY.**--During fiscal year 2007, 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 2006:

A. the administrative office of the courts may request budget increases from other state funds in excess of the five percent limitation from the magistrate court warrant enforcement fund to purchase and install space-saver filing systems in certain magistrate courts and may request budget increases from internal services funds/interagency transfers in excess of the five percent limitation from the magistrate court mediation fund to increase training of volunteer mediators;

B. the Bernalillo county metropolitan court may request budget increases from other state funds in excess of the five percent limitation not to exceed fifty thousand dollars (\$50,000) for operating and maintaining the parking facility;

C. the second judicial district attorney may request budget increases from internal services funds/interagency transfers and other state funds in excess of the five percent limitation up to one hundred ten thousand dollars (\$110,000) for personal services and employee benefits and contractual services related to the methamphetamine initiative;

D. the policy development, fiscal analysis, budget oversight, and educational accountability program of the department of finance and administration may request budget increases from internal services funds/interagency transfers in excess of the five percent limitation not to exceed two hundred ten thousand dollars (\$210,000) for expenditures related to the pre-kindergarten evaluation contract and up to fifty-two thousand dollars (\$52,000) for expenditures related to a consequential validity study;

E. the general services department may request budget increases from internal services funds/interagency transfers in excess of the five percent limitation in the amounts of three million dollars (\$3,000,000) for the communications program, six million dollars (\$6,000,000) for the transportation services program and fifteen million dollars (\$15,000,000) for the risk management program;

F. the tourism department may request budget increases for the New Mexico magazine program from other state funds in excess of the five percent limitation

not to exceed two hundred thousand dollars (\$200,000) from earnings on sales; may request budget increases for the New Mexico clean and beautiful program from the special revenue fund in excess of the five percent limitation not to exceed one hundred thousand dollars (\$100,000) for grants to communities for litter-reduction programs; may request budget increases for the marketing and promotion program from other state funds in excess of the five percent limitation up to twenty-five thousand dollars (\$25,000) to implement a joint powers agreement with the city of Santa Fe; and may request budget increases from the special revenue fund not to exceed ten thousand dollars (\$10,000) to implement a joint powers agreement for the New Mexico clean and beautiful program with the department of transportation and the taxation and revenue department from earnings on route 66 commemorative license plate sales;

G. the public regulation commission may request budget increases for the title insurance bureau of the insurance policy program from the title insurance maintenance assessment fund in excess of the five percent limitation not to exceed forty thousand dollars (\$40,000) to finance the legal defense for title-insurance-related litigation;

H. the New Mexico medical board may request budget increases from other state funds in excess of the five percent limitation up to twenty-four thousand dollars (\$24,000) for additional support for the administrative hearing process;

I. the department of cultural affairs may request budget increases from internal services funds/interagency transfers and other state funds in excess of the five percent limitation not to exceed three hundred four thousand four hundred dollars (\$304,400);

J. the state parks program of the energy, minerals and natural resources department may request budget increases from other state funds and internal services funds/interagency transfers in excess of the five percent limitation up to two hundred fifty thousand dollars (\$250,000) for operational shortfalls, maintenance and capital equipment replacements;

K. the office of the state engineer may request budget increases from internal services funds/interagency transfers in excess of the five percent limitation up to one million five hundred thousand dollars (\$1,500,000) to transfer accrued revenue from the hydrographic income fund to the improvement of Rio Grande income fund and the New Mexico irrigation works construction fund;

L. the office of African American affairs may request budget increases from internal services funds/interagency transfers and other state funds in excess of the five percent limitation up to one hundred thousand dollars (\$100,000);

M. the human services department may request budget increases from other state funds in excess of the five percent limitation from revenue collected for the small employers' insurance program for program administration;

N. the governor's commission on disability may request budget increases from other state funds in excess of the five percent limitation up to forty-seven thousand six hundred fifty dollars (\$47,650) for expenditures related to the tobacco use prevention and cessation grant from the department of health;

O. the public health program of the department of health may request budget increases from other state funds in excess of the five percent limitation from the insurance assistance program for HIV/AIDS treatment services in an amount not to exceed eight hundred thousand dollars (\$800,000) and may request budget increases from other state funds in excess of the five percent limitation related to private insurance payments for vaccines provided through the immunizations program in an amount not to exceed four hundred thousand dollars (\$400,000); the developmental disabilities support program of the department of health may request program transfers for the family, infant and toddler program; the department of health may request budget increases from other state funds from the land grant permanent income fund and distribution of state land office rentals revenues;

P. the department of environment may request budget increases from the solid waste facility grant fund in excess of the five percent limitation to budget nonreverting balances and interest earned on appropriations received from the sale of bonds by the New Mexico finance authority to fund committed solid waste facility grants up to seven hundred thousand dollars (\$700,000);

Q. the children, youth and families department may request budget increases from other state funds in excess of the five percent limitation up to two million nine hundred seventy-five thousand seven hundred dollars (\$2,975,700) from distributions from the land grant permanent fund and income from state lands;

R. the corrections department may request program transfers from the program support, inmate programming and community offender management programs not to exceed seven and one-half percent of the total program appropriation and may request budget increases from other state funds, internal services funds/interagency transfers in excess of the five percent limitation from revenue generated from budget transfers from the university of New Mexico and department of health to fund the hepatitis C drug treatment programs up to two hundred seventy-five thousand dollars (\$275,000), excess revenue and cash balances from probation and parole fees up to five hundred thousand dollars (\$500,000), excess cash balances from the building fund up to one hundred eight thousand five hundred dollars (\$108,500) and cash balances from the community corrections grant fund up to one hundred thousand dollars (\$100,000);

S. the department of public safety may request program transfers from the law enforcement program and emergency management and homeland security support program in excess of the five percent limitation into program support not to exceed five hundred thousand dollars (\$500,000) to support information technology; and

T. the transportation and highway operations program of the department of transportation may request budget increases from other state funds in excess of the five percent limitation up to three million three hundred six thousand eight hundred thirty-three dollars (\$3,306,833) or an additional one and one-half percent for contract road maintenance and operational road maintenance costs.

## **Chapter 28 Section 10 Laws 2007**

### **Section 10. CERTAIN FISCAL YEAR 2008 BUDGET ADJUSTMENTS AUTHORIZED--**

A As used in this section and Section 9 of the General Appropriation Act of 2007:

(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 2008

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, ~~except that, notwithstanding the ten-day requirement of Subsection B of Section 6-3-25 NMSA 1978, no request made prior to October 1, 2007, for a category transfer shall go into effect until the earliest of the following:~~

~~(1) thirty-five calendar days after the category transfer request is filed with the director of the legislative finance committee pursuant to Subsection A of Section 6-3-25 NMSA 1978; or~~

~~(2) the day after the category transfer request is reviewed by the legislative finance committee or a subcommittee of the legislative finance committee~~

D Unless a conflicting budget increase is authorized in Subsection E of this section, a program with internal services 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 services funds/interagency transfers or other state funds appropriation contained in Section 4 of the General Appropriation Act of 2007 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 adjustment authority otherwise provided in the General Appropriation Act of 2007, the following agencies may request specified budget adjustments:

(1) the New Mexico compilation commission may request budget increases from other state funds for publishing costs associated with subscriptions, supreme court opinions and other publications;

(2) the judicial standards commission may request budget increases from other state funds up to twenty-five thousand dollars (\$25,000) of funds received from trial cost reimbursement imposed by the supreme court on a respondent as part of the court's imposition of discipline on that respondent;

(3) the administrative office of the courts may request budget increases from other state funds up to nine hundred fifty thousand dollars (\$950,000) from the magistrate and metropolitan court capital fund to secure, furnish and equip magistrate court facilities after payment of debt service by the New Mexico finance authority;

(4) the Bernalillo county metropolitan court may request budget increases up to three hundred thousand dollars (\$300,000) from internal services funds/interagency transfers and other state funds for pre- and post-adjudication services;

(5) the eleventh judicial district court may request budget increases from the internal services funds/interagency transfers and other state funds in excess of the five percent limitation not to exceed fifteen thousand dollars (\$15,000) for drug court programs;

(6) the first judicial district attorney may request budget increases from internal services funds/interagency transfers and other state funds for funds received from any political subdivision of the state or from Indian tribes and may request budget increases from internal services funds/interagency transfers up to one hundred twenty-five thousand dollars (\$125,000) to prosecute tax crimes statewide;

(7) the second judicial district attorney may request budget increases from other state funds up to fifty thousand dollars (\$50,000) for attorney bar dues and may

request budget increases from internal services funds/interagency transfers and other state funds up to four hundred ten thousand dollars (\$410,000) for personal services and employee benefits and contractual services;

(8) the eighth judicial district attorney may request budget increases from internal services funds/interagency transfers and other state funds for funds received from any political subdivision of the state or from Indian tribes and may request budget increases from internal services funds/interagency transfers and other state funds not to exceed seventy-five thousand dollars (\$75,000);

(9) the eleventh judicial district attorney-division I may request budget increases from internal services funds/interagency transfers and other state funds up to one hundred twenty-five thousand dollars (\$125,000);

(10) the eleventh judicial district attorney-division II may request budget increases from internal services funds/interagency transfers and other state funds up to one hundred twenty-five thousand dollars (\$125,000);

(11) the thirteenth judicial district attorney may request budget increases from internal services funds/interagency transfers and other state funds for funds received from any political subdivision of the state or from Indian tribes;

(12) the administrative office of the district attorneys may request budget increases from other state funds up to fifty thousand dollars (\$50,000) for costs associated with the district attorneys training conference and may request budget increases from miscellaneous revenue collected from nondistrict attorney employee registration fees up to two thousand dollars (\$2,000) to pay for conference-related expenses;

(13) the attorney general may request budget increases from internal services funds/interagency transfers for the prosecution of criminal cases related to the Santa Rosa prison riots and may request budget increases from settlement funds up to three hundred thousand dollars (\$300,000) for the legal services program to include consumer education and alert programs;

(14) the taxation and revenue department may request budget increases for program support from other state funds in excess of the five percent limitation up to two hundred thousand dollars (\$200,000) for a revenue-accounting update of the gentax software;

(15) the state investment council may request budget increases from other state funds up to two million dollars (\$2,000,000) for investment manager fees and custody fees, provided that this amount may be exceeded if the department of finance and administration approves a certified request from the state investment council that additional increases from other state funds are required for increased investment manager fees and custody fees and may request transfers to any other category except

that only five hundred thousand dollars (\$500,000) of the money appropriated for investment manager fees in the contractual services category may be transferred;

(16) the public school insurance authority may request budget increases from internal services funds/interagency transfers and other state funds for the benefits and risk programs;

(17) the retiree health care authority may request budget increases from internal services funds/interagency transfers and other state funds for the benefits program;

(18) the general services department may request budget increases from internal services funds/interagency transfers in an amount not to exceed fifteen percent of the appropriation for each of the employee group health benefits, risk management, information technology, communications, business office space management and maintenance services and transportation services programs if it collects revenue in excess of appropriated levels;

(19) the educational retirement board may request budget increases from other state funds for investment manager fees, custody fees and investment-related legal fees, provided that the department of finance and administration approves a certified request from the educational retirement board that additional increases from other state funds are required for increased investment manager fees, custody fees and investment-related legal fees; and may request category transfers, except that funds authorized for investment manager fees and custody services within the contractual services category of the administrative services division of the educational retirement board shall not be transferred;

(20) the public defender department may request budget increases from internal services funds/interagency transfers and other state funds up to five hundred thousand dollars (\$500,000);

(21) the public employees retirement association may request budget increases from other state funds for investment manager fees, custody fees and investment-related legal fees, provided that the department of finance and administration approves a certified request from the public employees retirement association that additional increases from other state funds are required for increased investment manager fees, custody fees and investment-related legal fees, and may request category transfers, except that funds authorized for investment manager fees, custody fees and investment-related legal fees within the contractual services category of the administrative division of the public employees retirement association and for custody services within the contractual services category of the administrative division of the public employees retirement association shall not be transferred;

(22) the tourism department may request budget increases in excess of the five percent limitation for the New Mexico magazine program from other state funds

from earnings on sales not to exceed two hundred thousand dollars (\$200,000), may request budget increases in excess of the five percent limitation for the New Mexico clean and beautiful program not to exceed one hundred thousand dollars (\$100,000) from the special revenue fund for grants to communities for litter-reduction programs and may request budget increases from the special revenue fund not to exceed ten thousand dollars (\$10,000) to implement a joint powers agreement for the New Mexico clean and beautiful program with the department of transportation and the taxation and revenue department from earnings from route 66 commemorative license plate sales;

(23) the board of pharmacy of the boards and commissions program of the regulation and licensing department may request budget increases from other state funds up to three million three hundred thousand dollars (\$3,300,000) to pay the costs associated with prescription drug programs for seniors operated by the aging and long-term services department, the New Mexico medical insurance pool or for the transition associated with medicare part D;

(24) the public regulation commission may request budget increases for the title insurance bureau of the insurance policy program from the title insurance maintenance assessment fund in excess of the five percent limitation not to exceed forty thousand dollars (\$40,000) to finance the legal defense for title-insurance-related litigation and the public regulation commission may request budget increases for the office of the state fire marshal from the training academy use fee fund;

(25) the New Mexico medical board may request budget increases from other state funds up to ninety-four thousand dollars (\$94,000) for the administrative hearing process;

(26) the New Mexico state fair may request budget increases from unforeseen internal services funds/interagency transfers and other state funds;

(27) the cultural affairs department may request budget increases from internal services funds/interagency transfers for archaeological services;

(28) the department of game and fish may request budget increases in excess of the five percent limitation from the game protection fund up to five hundred thousand dollars (\$500,000) for emergencies, ~~and the agency shall report the nature of the emergency to the legislative finance committee within thirty days of the emergency budget increase request;~~

(29) the oil and gas conservation program of the energy, minerals and natural resources department may request budget increases up to three hundred thousand dollars (\$300,000) from the assessment of penalties for violations of the Oil and Gas Act, may request budget transfers to and from the other financing uses category to transfer funds to the department of environment for the underground injection program, may request budget increases from internal services funds/interagency transfers for funds received from the department of environment for

the water quality program and may request budget increases from funds received in the oil and gas reclamation fund to close abandoned wells; the healthy forests, state parks and renewable energy and energy efficiency programs of the energy, minerals and natural resources department may request budget increases from the New Mexico youth conservation corps fund for projects approved by the New Mexico youth conservation corps commission and budget increases from internal services funds/interagency transfers and other state funds up to five hundred thousand dollars (\$500,000) for clean energy and energy conservation program projects; the state parks program of the energy, minerals and natural resources department may request additional budget increases up to one million dollars (\$1,000,000) from other state funds and internal services funds/interagency transfers for unforeseen operational shortfalls, maintenance and capital equipment replacements and the healthy forest program may request budget increases from other state funds up to five hundred thousand dollars (\$500,000) for costs associated with the inmate work camp program and the conservation planting revolving fund;

(30) the office of the state engineer may request budget increases up to seventy thousand dollars (\$70,000) from the Ute construction fund to develop a master plan, may request up to one million five hundred thousand dollars (\$1,500,000) from internal services funds/interagency transfers from the attorney general's office to prepare for anticipated water litigation, may request budget increases from other state funds and internal services funds/interagency transfers up to one million five hundred thousand dollars (\$1,500,000) for the Eagle Nest dam rehabilitation from the department of game and fish and may request budget increases up to one hundred thousand dollars (\$100,000) from contractual services reimbursements for water modeling supply studies;

(31) the commission on the status of women may request budget increases from other state funds for the statutorily mandated recognition program for women;

(32) the office of African American affairs may request budget increases up to five hundred thousand dollars (\$500,000) from other revenue and may request one hundred thousand dollars (\$100,000) from internal services funds/interagency transfers;

(33) the consumer and elder rights program of the aging and long-term services department may request budget increases from internal services funds/interagency transfers from the board of pharmacy of the boards and commissions program of the regulation and licensing department up to three million three hundred thousand dollars (\$3,300,000) to operate prescription drug programs for seniors, including those operated by the New Mexico medical insurance pool, or for the transition associated with medicare part D, and the long-term services program of the aging and long-term services department may request budget increases from internal services funds/interagency transfers from the governor's commission on disability of up to one hundred fifteen thousand seven hundred dollars (\$115,700) for the gap program;

(34) the human services department may request transfers between the medical assistance program and the medicaid behavioral health program;

(35) the labor department may request program transfers if the cumulative effect of a requested program transfer, together with all program transfers previously requested and approved pursuant to this subsection, will not increase or decrease the total annual appropriation to a program from all funding sources, including federal Reed Act, by more than five percent;

(36) the governor's commission on disability may request budget increases from other state funds of up to one hundred fifteen thousand seven hundred dollars (\$115,700) from the fund for the handicapped for transfer to the aging and long-term services department for the gap program;

(37) the miners' hospital of New Mexico may request budget increases from other state funds;

(38) the department of health may request category transfers up to three percent of the other financing uses category in the developmental disabilities support program for developmental disabilities medicaid waiver program infrastructure and may request budget increases from other state funds from health facility license and certification fees pursuant to Subsection G of Section 24-1-5 NMSA 1978 and from other state funds related to private insurer payments for services provided through the public health and family infant toddler programs;

(39) the department of environment may request budget increases from other state funds for responsible party payments, may request budget increases from the corrective action fund to pay claims and may request budget increases from the hazardous waste emergency fund and may request budget increases from the solid waste facility grant fund to budget nonreverting balances and interest earned on appropriations received from the sale of bonds by the New Mexico finance authority to fund committed solid waste facility grants up to seven hundred thousand dollars (\$700,000); the water quality program of the department of environment may request budget increases up to four hundred thousand dollars (\$400,000) from internal services funds/interagency transfers for funds received to prepare for potential litigation with Texas on water issues;

(40) the office of the natural resources trustee may request budget increases from internal services funds/interagency transfers and other state funds up to four million eight hundred thousand dollars (\$4,800,000) for restoration projects and may request budget increases from other state funds for restoration of the South Valley superfund site equal to any fines for damages resulting from this settlement;

(41) the corrections department may request budget increases from other state funds and internal services funds/interagency transfers for costs associated with the inmate forestry work camp, from excess revenue and cash balances from probation

and parole fees, cash balances from the community corrections grant fund and transfers from the university of New Mexico and department of health to fund the hepatitis C drug treatment program and may request program transfers if the cumulative effect of a requested program transfer, together with all program transfers previously requested and approved pursuant to this subsection, will not increase or decrease the total annual appropriation to a program from all funding sources by more than five percent;

(42) the crime victims' reparation commission may request budget increases from other state funds for victim reparation services;

(43) the department of public safety may request budget increases from internal services funds/interagency transfers and other state funds for records fees, photo stat fees and advanced training fees collected in excess of those budgeted, may request budget increases from the concealed handgun carry revenues and balances to address the enforcement of the Concealed Handgun Carry Act, may request budget increases from the state forfeiture fund to address the enforcement of the Controlled Substances Act, and may request program transfers from law enforcement program, emergency management and homeland security support program into program support to support the information technology consolidation;

(44) the department of transportation may request program transfers from the program support and transportation and highway operations programs to the programs and infrastructure program not to exceed three million dollars (\$3,000,000) from the state road fund to meet additional federal fund opportunities for any amount over three percent of its federal funds appropriation contained in Section 4 of the General Appropriation Act of 2007;

(45) the higher education department may request budget increases up to five hundred thousand dollars (\$500,000) from fees earned from the education trust board for costs associated with the operations of the education trust board and may request transfers to and from the other financing uses category; and

(46) the public school facilities authority may request budget increases for project management expenses pursuant to the Public School Capital Outlay Act

F The department of military affairs, 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 28 Section 11 Laws 2007**

### **Section 11. FUND TRANSFERS --**

A Forty million dollars (\$40,000,000) shall be transferred from the general fund operating reserve in fiscal year 2007 to the appropriation contingency fund

B Fifteen million dollars (\$15,000,000) shall be transferred from the general fund at the beginning of fiscal year 2008 to the water trust fund created by the Water Project Finance Act

## **Chapter 28 Section 12 Laws 2007**

**Section 12. TRANSFER AUTHORITY** -- If revenues and transfers to the general fund at the end of fiscal year 2007 are not sufficient to meet appropriations, the governor, with state board of finance approval, may transfer at the end of that year the amount necessary to meet the year's obligation from the unencumbered balance remaining in the general fund operating reserve in a total not to exceed two hundred seventy million dollars (\$270,000,000)

## **Chapter 28 Section 13 Laws 2007**

**Section 13. SEVERABILITY** -- If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected

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HOUSE APPROPRIATIONS AND FINANCE

COMMITTEE SUBSTITUTE FOR HOUSE

BILLS 2, 3, 4, 5, 6 AND 9, AS AMENDED

APPROVED MARCH 15, 2007

## **LAWS 2007, CHAPTER 29**

AN ACT

RELATING TO STATE-OWNED VEHICLES; MODIFYING THE AUTHORITY AND RESPONSIBILITIES OF THE TRANSPORTATION SERVICES DIVISION OF THE GENERAL SERVICES DEPARTMENT.

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

## **Chapter 29 Section 1 Laws 2007**

Section 1. Section 15-8-2 NMSA 1978 (being Laws 1994, Chapter 119, Section , as amended) is amended to read:

"15-8-2. FINDINGS AND PURPOSE.--The legislature finds that centralized control of state vehicles is in the best interest of the state because it permits the state to

use its transportation resources in the most efficient and effective manner. The primary purposes of the Transportation Services Act are to:

- A. provide a centralized agency to purchase state vehicles and to control their use;
- B. implement and administer the State Aircraft Act; and
- C. provide authorization for administration of the state's state and federal surplus property programs."

## **Chapter 29 Section 2 Laws 2007**

Section 2. Section 15-8-3 NMSA 1978 (being Laws 1994, Chapter 119, Section 3, as amended) is amended to read:

"15-8-3. DEFINITIONS.--As used in the Transportation Services Act:

- A. "director" means the director of the division;
- B. "division" means the transportation services division of the general services department;
- C. "secretary" means the secretary of general services;
- D. "state agency" means a state department, agency, board or commission, including the legislative and judicial branches, but not including public schools and institutions of higher education; and
- E. "state vehicle" means an automobile, van, sport-utility truck, pickup truck or other vehicle with a declared gross vehicle weight of less than ten thousand pounds used by a state agency to transport passengers or property."

## **Chapter 29 Section 3 Laws 2007**

Section 3. Section 15-8-4 NMSA 1978 (being Laws 1994, Chapter 119, Section 4, as amended) is amended to read:

"15-8-4. DIVISION CREATED.--The "transportation services division" is created in the general services department. The director shall be appointed by the secretary with the consent of the governor. Staff of the division shall be covered by the provisions of the Personnel Act."

## **Chapter 29 Section 4 Laws 2007**

Section 4. Section 15-8-5 NMSA 1978 (being Laws 1994, Chapter 119, Section 5) is amended to read:

"15-8-5. DIVISION--GENERAL POWERS AND DUTIES.--The division shall:

- A. have control over state vehicles owned or leased by the division;
- B. regulate the use of the state vehicles owned or leased by the division;
- C. register all state vehicles owned or leased by the division;
- D. control the issuance of state government plates assigned to a state agency and ensure that state government plates are used only on state vehicles;
- E. maintain a complete and accurate inventory of state vehicles owned or leased by the division and the location of those vehicles;
- F. establish and enforce maintenance standards for state vehicles owned or leased by the division;
- G. require periodic use and maintenance reports from state agencies that have custody of state vehicles owned or leased by the division;
- H. purchase or lease, through the state purchasing agent, state vehicles to be owned or leased by the division and assign their use;
- I. perform periodic announced and unannounced inspections of state vehicles owned or leased by the division in the custody of state agencies;
- J. establish a motor pool and provide a fleet of state vehicles for use by state agencies;
- K. establish and enforce standards for drivers of state vehicles, including revoking driver privileges;
- L. have access to individual state employee driver records maintained by the taxation and revenue department in order to ensure that drivers of state vehicles hold a current valid driver's license as defined by the rules of the division;
- M. maintain a record of all accident reports and insurance claims for vehicles owned or leased by the division;
- N. maintain a history of state vehicles owned or leased by the division, including purchases, maintenance and sales;

O. carry out the provisions of the Alternative Fuel Acquisition Act as it applies to vehicles owned or leased by the division;

P. have the power to sell or otherwise dispose of vehicles owned or leased by the division pursuant to the provisions of Sections 13-6-1 and 13-6-2 NMSA 1978 after approval of the secretary; and

Q. administer the state's state and federal surplus property programs."

## **Chapter 29 Section 5 Laws 2007**

Section 5. Section 15-8-6 NMSA 1978 (being Laws 1994, Chapter 119, Section 6) is amended to read:

"15-8-6. STATE VEHICLES--USE--MARKINGS--STATE GOVERNMENT PLATES.--

A. The division shall adopt rules governing the use of vehicles used by state agencies, including driver requirements and responsibilities, under what circumstances someone can be assigned a state vehicle on a permanent or semi-permanent basis and when custody of a state vehicle can be vested in another state agency.

B. The division may determine that it is impractical to retain custody of certain state vehicles, and it may provide that custody reside in another state agency in the following cases:

(1) the state vehicle is used for emergency or law enforcement purposes;

or

(2) the state vehicle is a department of transportation, energy, minerals and natural resources department or department of game and fish passenger vehicle, truck or tractor or heavy road equipment.

C. Except as provided in Subsections E and F of this section, all state vehicles shall be marked as state vehicles. Each side of the vehicle shall be marked, in letters not less than two inches in height, with the following designation of ownership: "State of New Mexico,.....Department" or "State of New Mexico Department of ....." and naming the department using the vehicle.

D. Except as provided in Subsections E and F of this section, all state vehicles shall have specially designed government registration plates.

E. Only state vehicles used for legitimate undercover law enforcement purposes are exempt from the requirements of Subsections C and D of this section. All other state vehicles owned or in the custody of state agencies that have law enforcement functions shall be marked and have state government registration plates.

F. A state agency may seek custody of state vehicles as an exception to Subsection B of this section or an exemption to the provisions of Subsection C of this section by making a written request to the director, specifying the reasons for the proposed custody or exemption. The director may approve the custody or exemption, in writing, indicating the duration and any conditions of the custody or exemption."

### **Chapter 29 Section 6 Laws 2007**

Section 6. Section 15-8-9 NMSA 1978 (being Laws 1994, Chapter 119, Section 9) is amended to read:

"15-8-9. VEHICLE TITLE.--Title to all state vehicles shall be in the name of the division."

### **Chapter 29 Section 7 Laws 2007**

Section 7. Section 15-8-10 NMSA 1978 (being Laws 1994, Chapter 119, Section 10, as amended) is amended to read:

"15-8-10. RULES.--The division shall adopt and file in accordance with the State Rules Act rules to carry out the provisions of the Transportation Services Act."

### **Chapter 29 Section 8 Laws 2007**

Section 8. Section 15-8-11 NMSA 1978 (being Laws 1994, Chapter 119, Section 11) is amended to read:

"15-8-11. REPORT TO LEGISLATURE.--The division shall provide an annual report to the legislature that includes information on the operations of the division, including reports on Motor Vehicle Code violations, accidents and insurance claims involving state vehicles owned or leased by the division; major maintenance costs; and purchases and sales of motor vehicles. The report shall be deemed to have been provided to the legislature when filed with the legislative council service and the legislative finance committee. The division shall make copies available to individual legislators upon request."

### **Chapter 29 Section 9 Laws 2007**

Section 9. Section 66-3-28 NMSA 1978 (being Laws 1994, Chapter 119, Section 14, as amended) is amended to read:

"66-3-28. STATE GOVERNMENT REGISTRATION PLATES--ISSUANCE APPROVED.--State government registration plates shall be provided to a state agency by the transportation services division of the general services department. As used in this section, "state agency" means a state department, agency, board or commission,

including the legislative and judicial branches, but not including public schools and institutions of higher education."

## **Chapter 29 Section 10 Laws 2007**

Section 10. Section 66-6-15 NMSA 1978 (being Laws 1978, Chapter 35, Section 350, as amended) is amended to read:

"66-6-15. VEHICLES OF THE STATE, COUNTY OR MUNICIPALITY.--

A. Vehicles or trailers owned by and used in the service of an Indian nation, tribe or pueblo located wholly or partly in this state or of any county or municipality of this state need not be registered but must continually display plates furnished by the division.

B. Vehicles on loan from dealers and used in an approved driver-training program by the public schools need not be registered but must continually display plates furnished by the division.

C. Each Indian nation, tribe or pueblo, each county and each municipality shall apply to the division for a plate for each vehicle or trailer in its service and shall provide identifying information concerning each vehicle or trailer for which a plate is applied.

D. The division shall issue plates for vehicles and trailers in the service of an Indian nation, tribe or pueblo located wholly or partly in this state or of any county or municipality of this state and keep a record of plates issued and plates returned. The plates shall be permanent and need not be renewed from year to year. The plates shall be numbered to identify the Indian nation, tribe or pueblo, the county or the municipality to which the plates are issued. The plates shall be the same size as registration plates issued to private vehicles but shall be different in color from the registration plates issued to private vehicles.

E. A vehicle or trailer owned by and used in the service of the state need not be registered with the division but must continually display a plate furnished by the transportation services division of the general services department. A state agency shall apply to the transportation services division of the general services department for a plate for each vehicle or trailer in its service, including identifying information for each vehicle or trailer. The transportation services division of the general services department shall issue plates for state agency vehicles and trailers and shall keep a record of plates issued and plates returned. These plates shall be:

(1) permanent and shall not be renewed from year to year;

(2) numbered to identify the state agency to which they are issued; and

(3) the same size as but a different color from registration plates issued to private vehicles or trailers or from plates issued pursuant to Subsection D of this section.

F. As used in Subsection E of this section, "state agency" means a state department, agency, board or commission including the legislative and judicial branches of government, but not including public schools and institutions of higher education."

## **Chapter 29 Section 11 Laws 2007**

Section 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 427, as amended

Approved March 15, 2007

## **LAWS 2007, CHAPTER 30**

AN ACT

RELATING TO RAFFLES; ALLOWING THE NEW MEXICO STATE FAIR TO CONDUCT RAFFLES FOR PROMOTION AND TO AUGMENT REVENUES; DECLARING AN EMERGENCY.

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

## **Chapter 30 Section 1 Laws 2007**

Section 1. Section 60-2B-3 NMSA 1978 (being Laws 1981, Chapter 259, Section 3, as amended) is amended to read:

"60-2B-3. DEFINITIONS.--As used in the Bingo and Raffle Act:

A. "charitable organization" means any organization, not for pecuniary profit, that is operated for the relief of poverty, distress or other condition of public concern in New Mexico and that has been so engaged for three years immediately prior to making application for a license under the Bingo and Raffle Act and that has been granted an exemption from federal income tax by the United States commissioner of internal revenue as an organization described in Section 501 (c) of the United States Internal Revenue Code of 1954, as amended or renumbered;

B. "chartered branch, lodge or chapter of a national or state organization" means any branch, lodge or chapter that is a civic or service organization, not for pecuniary profit, and authorized by its written constitution, charter, articles of incorporation or bylaws to engage in a fraternal, civic or service purpose in New Mexico and that has been so engaged for three years immediately prior to making application for a license under the Bingo and Raffle Act;

C. "commercial lessor" means an entity that leases space to a qualified organization;

D. "distributor" means a person who supplies equipment to a qualified organization but does not manufacture equipment;

E. "educational organization" means any organization within the state, not organized for pecuniary profit, whose primary purpose is educational in nature and designed to develop the capabilities of individuals by instruction and that has been in existence in New Mexico for three years immediately prior to making application for a license under the Bingo and Raffle Act;

F. "fraternal organization" means any organization within the state, except college and high school fraternities, not for pecuniary profit, that is a branch, lodge or chapter of a national or state organization and exists for the common business, brotherhood or other interests of its members and that has existed in New Mexico for three years immediately prior to making application for a license under the Bingo and Raffle Act;

G. "labor organization" means any organization, not for pecuniary profit, within the state, that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work and that has existed in New Mexico for that purpose and has been so engaged for three years immediately prior to making application for a license under the Bingo and Raffle Act;

H. "qualified organization" means any bona fide chartered branch, lodge or chapter of a national or state organization or any bona fide religious, charitable, environmental, fraternal, educational or veterans' organization operating without profit to its members that has been in existence in New Mexico continuously for a period of three years immediately prior to the making of an application for a license under the Bingo and Raffle Act and that has had, during the entire three-year period, a dues-paying membership engaged in carrying out the objects of the corporation or organization. A voluntary firemen's organization is a qualified organization and a labor organization is a qualified organization for the purpose of the Bingo and Raffle Act if it uses the proceeds from a game of chance solely for scholarship or charitable purposes;

I. "environmental organization" means any organization primarily concerned with the protection and preservation of the natural environment and that has existed in New

Mexico for three years immediately prior to making application for a license under the Bingo and Raffle Act;

J. "religious organization" means any organization, church, body of communicants or group, not for pecuniary profit, gathered in common membership for mutual support and edification in piety, worship and religious observances or a society, not for pecuniary profit, of individuals united for religious purposes at a definite place, which organization, church, body of communicants, group or society has been so gathered or united in New Mexico for three years immediately prior to making application for a license under the Bingo and Raffle Act;

K. "veterans' organization" means any organization within the state or any branch, lodge or chapter of a national or state organization within this state, not for pecuniary profit, the membership of which consists of individuals who were members of the armed services or forces of the United States, that has been in existence in New Mexico for three years immediately prior to making application for a license under the Bingo and Raffle Act;

L. "voluntary firemen's organization" means any organization for firefighting within the state, not for pecuniary profit, established by the state or any of its political subdivisions, that has been in existence in New Mexico for three years immediately prior to making application for a license under the Bingo and Raffle Act;

M. "dues-paying membership" means those members of an organization who pay regular monthly, annual or other periodic dues or who are excused from paying such dues by the charter, articles of incorporation or bylaws of the organization and those who contribute voluntarily to the corporation or organization to which they belong for the support of the corporation or organization;

N. "equipment" means:

(1) with respect to bingo or lotto:

(a) the receptacle and numbered objects drawn from it;

(b) the master board upon which the numbered objects are placed as drawn;

(c) the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them;

(d) the board or signs, however operated, used to announce or display the numbers or designations as they are drawn;

(e) the public address system; and

(f) all other articles essential to the operation, conduct and playing of bingo or lotto; and

(2) with respect to a raffle, implements, devices and machines designed, intended or used for the conduct of raffles and the identification of the winning number or unit and the ticket or other evidence or right to participate in raffles;

O. "game of chance" means that specific kind of game of chance commonly known as bingo or lotto in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and that specific kind of game of chance commonly known as a raffle that is conducted by drawing for prizes or the allotment of prizes by chance or by the selling of shares, tickets or rights to participate in the game;

P. "gross receipts" means receipts from the sale of shares, tickets or rights in any manner connected with participation in a game of chance or the right to participate in a game of chance, including any admission fee or charge, the sale of equipment or supplies and all other miscellaneous receipts;

Q. "lawful purposes" means:

(1) educational, charitable, patriotic, religious or public-spirited purposes, which terms are defined to be the benefiting of an indefinite number of persons either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them in establishing themselves in life, by erecting or maintaining public buildings or works, by providing legal assistance to peace officers or firemen in defending civil or criminal actions arising out of the performance of their duties or by otherwise lessening the burden of government. These terms include the erection, acquisition, improvement, maintenance, insurance or repair of property, real, personal or mixed, if the property is used for one or more of the purposes stated in this subsection; or

(2) to augment the revenue of and promote the New Mexico state fair;

R. "lawful use" means the devotion of the entire net proceeds of a game of chance exclusively to lawful purposes;

S. "licensee" means any qualified organization to which a license has been issued by the licensing authority;

T. "licensing authority" means the gaming control board;

U. "manufacturer" means a person who manufactures, fabricates, assembles, produces, programs or makes modifications to equipment for use or play in New Mexico or for sale or distribution outside of New Mexico;

V. "member" means an individual who has qualified for membership in a qualified organization pursuant to its charter, articles of incorporation, bylaws, rules or other written statement;

W. "net proceeds" means the receipts less the expenses, charges, fees and deductions as are specifically authorized under the Bingo and Raffle Act;

X. "New Mexico state fair" means the fair created in Section 16-6-14 NMSA 1978;

Y. "occasion" means a single gathering or session at which a series of successive bingo or lotto games are played;

Z. "person" means a natural person, firm, association, corporation or other legal entity; and

AA. "premises" means any room, hall, enclosure or outdoor area used for the purpose of playing a game of chance."

## **Chapter 30 Section 2 Laws 2007**

Section 2. Section 60-2B-5 NMSA 1978 (being Laws 1981, Chapter 259, Section 5) is amended to read:

### **"60-2B-5. ORGANIZATIONS ENTITLED TO LICENSES--FEES.--**

A. Any bona fide chartered branch, lodge or chapter of a national or state organization or any bona fide religious, charitable, labor, environmental, fraternal, educational or veterans' organization that operates without profit to its members and that has been in existence in New Mexico continuously for a period of three years immediately prior to the making of application for a license under the Bingo and Raffle Act and has had, during the making of application for a license under that act and during the entire three-year period, dues-paying membership engaged in carrying out the objects of the corporation or organization is eligible for a license to be issued by the licensing authority under the Bingo and Raffle Act. In the event any license is revoked, the licensee and holder of the license is not eligible to apply for another license under Subsection B of this section until after the expiration of the period of one year from the date of revocation. Any voluntary firemen's organization established by the state or any political subdivision and that has been in existence in New Mexico for three years shall also be an organization entitled to a license under the provisions of that act.

B. The licenses provided by the Bingo and Raffle Act shall be issued by the licensing authority to applicants qualified under that act upon payment of a fee of one hundred dollars (\$100). The licenses shall expire at the end of the calendar year in which they are issued by the licensing authority and may be renewed by the licensing authority upon the filing of an application for renewal provided by the licensing authority

and the payment of a fee of one hundred dollars (\$100) for the renewal. A license or renewal granted under that act is not transferable.

C. The New Mexico state fair:

(1) may apply to the licensing authority for and shall be issued a license pursuant to the Bingo and Raffle Act to conduct games of chance on the grounds of the New Mexico state fair during the state fair; and

(2) shall pay a licensing fee to the licensing authority of one hundred dollars (\$100) per calendar year at the time of application for or renewal of a license issued pursuant to the Bingo and Raffle Act.

D. A qualified organization may conduct a raffle on the grounds of the New Mexico state fair during the state fair only after obtaining express prior approval of the state fair commission and the licensing authority."

### **Chapter 30 Section 3 Laws 2007**

Section 3. Section 60-2B-13 NMSA 1978 (being Laws 1981, Chapter 259, Section 13, as amended) is amended to read:

"60-2B-13. EXEMPTIONS.--Nothing in the Bingo and Raffle Act shall be construed to apply to:

A. a drawing or a prize at a fair or fiesta held in New Mexico under the sponsorship or authority of the state or any of its political subdivisions, or for the benefit of a church situated in this state or for charitable purposes when all the proceeds of the sale or drawing shall be expended within New Mexico for the benefit of that church or charitable purpose; or

B. bingo or a raffle held by a group or organization as defined in Section 60-2B-3 NMSA 1978 that holds bingo or a raffle only once during three consecutive calendar months and not exceeding four occasions in one calendar year."

### **Chapter 30 Section 4 Laws 2007**

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

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Senate Bill 782, as amended

with emergency clause

Approved March 15, 2007

## **LAWS 2007, CHAPTER 31**

AN ACT

RELATING TO WATER; GRANTING AUTHORITY TO THE INTERSTATE STREAM COMMISSION TO DEVELOP, CONSTRUCT, OPERATE AND MAINTAIN INFRASTRUCTURE RELATED TO THE STRATEGIC WATER RESERVE; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2003.

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

### **Chapter 31 Section 1 Laws 2007**

Section 1. Section 72-14-3.3 NMSA 1978 (being Laws 2005, Chapter 175, Section 1 and Laws 2005, Chapter 182, Section 1) is amended to read:

"72-14-3.3. INTERSTATE STREAM COMMISSION--ADDITIONAL POWERS--STRATEGIC WATER RESERVE.--

A. The interstate stream commission shall establish a strategic water reserve and may purchase or lease from willing sellers or lessors or receive through donation surface water or water rights or storage rights to compose the reserve. The commission may also purchase or lease from willing sellers or lessors or receive by donation underground water or water rights for the strategic water reserve for cessation of pumping or limited short-term stream augmentation. At no time shall the use of water or water rights held by the strategic water reserve result in an increase in net depletions in any basin. The commission shall pay no more than the appraised market value to purchase or lease water or water rights and storage rights for the strategic water reserve. The commission may accept money or grants from federal or other governmental entities or other persons to purchase or lease water or water rights for the strategic water reserve, to pay administrative costs and to develop, construct, operate and maintain infrastructure for the delivery of water to the location of need. The commission shall not acquire water or water rights that are served by or owned by an acequia or community ditch established pursuant to Chapter 73, Articles 2 and 3 NMSA 1978 for inclusion in the strategic water reserve. The commission shall not acquire water or water rights that are served by an irrigation district established pursuant to Chapter 73, Article 10 NMSA 1978, except through contractual arrangement with the district board of directors or as a special water users association established pursuant to Chapter 73, Article 10 NMSA 1978, but nothing in this section shall be construed to authorize the interstate stream commission to acquire water rights contrary to Section 72-1-2.4 NMSA 1978. The commission shall acquire only water rights that have sufficient seniority and consistent, historic beneficial use to effectively contribute to the purpose of the strategic water reserve. The commission shall not acquire water or water

rights for the strategic water reserve by condemnation and may only condemn real property when that property is needed for infrastructure related to the conveyance of water. Water in the strategic water reserve shall not be subject to forfeiture pursuant to Chapter 72 NMSA 1978. Water or water rights shall only be acquired with the explicit approval of the commission.

B. Water and water rights in the strategic water reserve shall be used to:

(1) assist the state in complying with interstate stream compacts and court decrees; or

(2) assist the state and water users in water management efforts for the benefit of threatened or endangered species or in a program intended to avoid additional listings of species. Management of water pursuant to this subsection shall be done in conjunction with collaborative programs or processes where they exist. Use of the strategic water reserve pursuant to this paragraph shall be limited to aquatic or obligate riparian species.

C. The interstate stream commission shall develop river reach or ground water basin priorities for the acquisition of water or water rights and storage rights for the strategic water reserve in consultation with the New Mexico interstate stream compact commissioners, the office of the state engineer and the attorney generals office. For each river reach or ground water basin, additional prioritization shall be developed in coordination with the governing bodies of the following organizations within the affected river reach or ground water basin:

(1) Indian nations, tribes and pueblos;

(2) boards of county commissioners;

(3) municipalities;

(4) special districts established pursuant to Chapter 73 NMSA 1978;

(5) soil and water conservation districts;

(6) water authorities; and

(7) water planning regions.

D. Nothing in this section shall modify or repeal any authority currently vested in any organization described in Subsection C of this section.

E. The interstate stream commission may sell or lease water or water rights from the strategic water reserve at no less than the appraised market value. The commission may sell water rights only if the rights are no longer necessary for the purposes for

which they were acquired for the reserve; provided that water rights in the reserve shall not be sold to the United States. Pursuant to a sale of water rights from the strategic water reserve by the interstate stream commission, the commission shall first make the offer of sale for the original purpose of use. Proceeds of any sale are appropriated to the office of the state engineer to adjudicate water rights. Proceeds of any leases are appropriated to the interstate stream commission for carrying out the purposes of the strategic water reserve.

F. Water or water rights acquired for the strategic water reserve or water or water rights sold or leased from the reserve shall remain in their river reach or ground water basin of origin.

G. Transactions with members of an irrigation or conservancy district established pursuant to Chapter 73 NMSA 1978 shall provide for the strategic water reserve to pay the annual assessment to the district that would accrue to the district absent the transaction.

H. Cumulative impacts of the strategic water reserve acquisitions and uses shall not adversely affect existing water users or delivery systems.

I. The interstate stream commission shall adopt rules consistent with the terms of this section, including rules to ensure:

(1) that water and water rights acquired for the strategic water reserve are used only for the purposes of the reserve;

(2) adequate public notice in each affected area for the acquisition or disposal of water rights; and

(3) that the office of the state engineer transfer procedures shall be followed.

J. The interstate stream commission shall annually report to the appropriate committee of the legislature on the status of the strategic water reserve."

## **Chapter 31 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 886, as amended

Approved March 15, 2007

# **LAWS 2007, CHAPTER 32**

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 32 Section 1 Laws 2007**

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 to the following qualified entities for the following public projects on terms and conditions established by the authority:

1. to the city of Artesia in Eddy county for equipment, building, infrastructure, refinancing, water, wastewater, water rights, solid waste, road and land projects;
2. to the Aztec municipal school district in San Juan county for equipment, building, refinancing, infrastructure and teacherage projects;
3. to the city of Aztec in San Juan county for equipment, building, infrastructure, refinancing, water, wastewater, water rights, solid waste, road and land projects;
4. to the Belen consolidated school district in Valencia county for equipment, building, refinancing, infrastructure and teacherage projects;
5. to the Bloomfield school district in San Juan county for equipment, building, refinancing, infrastructure and teacherage projects;
6. to the town of Carrizozo in Lincoln county for building, equipment, road and infrastructure projects;
7. to the central consolidated school district in San Juan county for equipment, building, refinancing, infrastructure and teacherage projects;
8. to the village of Chama in Rio Arriba county for equipment, building, infrastructure, refinancing, water, wastewater, water rights, solid waste, road and land projects;
9. to the Chaves county-East Grand Plains volunteer fire department for building, equipment and infrastructure projects in Chaves county;
10. to the Cobre consolidated school district in Grant county for equipment, building, refinancing, teacherage and infrastructure projects;

11. to the Deming public school district in Luna county for equipment, building, refinancing, infrastructure and teacherage projects;

12. to Eddy county-Happy Valley fire department for building, equipment and infrastructure projects in Eddy county;

13. to Eddy county-La Huerta fire department for building, equipment and infrastructure projects in Eddy county;

14. to the city of Espanola in Rio Arriba and Santa Fe counties for equipment, building, infrastructure, refinancing, water, wastewater, water rights, solid waste, road and land projects;

15. to the Fort Sumner municipal school district in De Baca county for equipment, building, refinancing, infrastructure and teacherage projects;

16. to the Jemez Valley public school district in Sandoval county for equipment, building, refinancing, infrastructure and teacherage projects;

17. to the town of Lake Arthur in Chaves county for building, equipment and infrastructure projects;

18. to the city of Las Cruces in Dona Ana county for equipment, building, infrastructure, refinancing, water, wastewater, water rights, solid waste, road and land projects;

19. to Lincoln county for building, equipment, road and infrastructure projects in Lincoln county;

20. to the Lovington municipal school district in Lea county for equipment, building, refinancing, infrastructure and teacherage projects;

21. to Luna county for equipment, building, infrastructure, refinancing, water, wastewater, water rights, solid waste, road and land projects in Luna county;

22. to the north central solid waste authority in Rio Arriba county for equipment, building, refinancing, water, wastewater, infrastructure and solid waste projects;

23. to the Ramah Navajo chapter in Cibola county for equipment, building, refinancing, infrastructure, road, land, water and wastewater projects;

24. to the Rio Rancho public school district in Sandoval county for equipment, building, refinancing, infrastructure and teacherage projects;

25. to the Ruidoso municipal school district in Lincoln county for equipment, building, refinancing, infrastructure and teacherage projects;

26. to the San Miguel county-Conchas Dam fire and rescue department for building, equipment and infrastructure projects in San Miguel county;

7. to the Sierra county-Arrey/Derry volunteer fire department for building, equipment and infrastructure projects in Sierra county;

28. to the Sierra county-Las Palomas fire department for building, equipment and infrastructure projects in Sierra county;

29. to the Socorro consolidated school district in Socorro county for equipment, building, refinancing, infrastructure and teacherage projects;

30. to the town of Taos in Taos county for equipment, building, infrastructure, refinancing, water, wastewater, water rights, solid waste, road and land projects;

31. to Torrance county for building, equipment, water, wastewater, land, refinancing, road and infrastructure projects in Torrance county;

32. to the Tucumcari municipal school district in Quay county for equipment, building, refinancing, infrastructure and teacherage projects;

33. to the city of Bayard in Grant county for equipment, building, infrastructure, land, road and refinancing projects;

34. to Catron county for equipment, building, infrastructure, refinancing and water projects in Catron county;

35. to Cibola county for equipment, building, infrastructure, road and refinancing projects in Cibola county;

36. to the village of Columbus in Luna county for equipment, land, building, infrastructure, refinancing, road and water projects;

37. to Curry county for equipment, building, land, infrastructure, road and refinancing projects in Curry county;

38. to the city of Deming in Luna county for equipment, building, infrastructure, refinancing, land, road and water projects;

39. to Dona Ana county for equipment, building, infrastructure, water, land, road and refinancing projects in Dona Ana county;

40. to eastern New Mexico university in Roosevelt county for equipment, building, refinancing, land and infrastructure projects;

41. to Grant county for equipment, building, infrastructure, correctional facility, road and refinancing projects in Grant county;

42. to Hidalgo county for equipment, building, infrastructure, road and refinancing projects in Hidalgo county;

43. to the New Mexico highlands university foundation in San Miguel and Sandoval counties for equipment, infrastructure, building, refinancing and land projects;

44. to the city of Lordsburg in Hidalgo county for equipment, building, infrastructure, water, road and refinancing projects;

45. to Otero county for equipment, building, land, infrastructure, road and refinancing projects in Otero county;

46. to Quay county for equipment, building, infrastructure, water, wastewater, road and refinancing projects in Quay county;

47. to Rio Grande natural gas association in Dona Ana county for equipment, building, infrastructure, land and refinancing projects;

48. to the village of Santa Clara in Grant county for equipment, building, infrastructure, refinancing, water, road and land projects;

49. to the town of Silver City in Grant county for equipment, building, infrastructure, refinancing and road projects;

50. to Union county for equipment, building, infrastructure, water, wastewater, road and refinancing projects in Union county;

51. to Valencia county for building, equipment, infrastructure, road and hospital projects in Valencia county;

52. to the city of Sunland Park in Dona Ana county for road, equipment, building, refinancing and infrastructure projects;

53. to the village of Hatch in Dona Ana county for road, equipment, building and infrastructure projects;

54. to the city of Elephant Butte in Sierra county for road and infrastructure projects;

55. to the city of Truth or Consequences in Sierra county for road and infrastructure projects;

56. to the village of Williamsburg in Sierra county for road and infrastructure projects;

57. to the town of Mesilla in Dona Ana county for road, equipment, building and infrastructure projects;

58. to Sierra county for road and infrastructure projects in Sierra county;

59. to the city of Socorro in Socorro county for road and infrastructure projects;

60. to Socorro county for road and infrastructure projects in Socorro county;

61. to the town of Hurley in Grant county for road and infrastructure projects;

62. to the village of Virden in Hidalgo county for road and infrastructure projects;

63. to Chaves county for road, building and infrastructure projects in Chaves county;

64. to the town of Dexter in Chaves county for road and infrastructure projects;

65. to the city of Roswell in Chaves county for road, building, equipment, refinancing and infrastructure projects;

66. to the city of Clovis in Curry county for road and infrastructure projects;

67. to the village of Fort Sumner in De Baca county for road and infrastructure projects;

68. to Eddy county for road and infrastructure projects in Eddy county;

69. to the village of Hope in Eddy county for road and infrastructure projects;

70. to the town of Vaughn in Guadalupe county for road and infrastructure projects;

71. to the city of Eunice in Lea county for road and infrastructure projects;

72. to the city of Jal in Lea county for road and infrastructure projects;

73. to Lea county for road and infrastructure projects in Lea county;

74. to the city of Lovington in Lea county for road and infrastructure projects;

75. to the village of Capitan in Lincoln county for road, building and infrastructure projects;

76. to the city of Ruidoso Downs in Lincoln county for road and infrastructure projects;

77. to the city of Alamogordo in Otero county for road and infrastructure projects;

78. to the village of Cloudcroft in Otero county for road and infrastructure projects;

79. to the Mescalero Apache Tribe in Otero county for road, building and infrastructure projects;

80. to the town of Elida in Roosevelt county for road and infrastructure projects;

81. to Roosevelt county for road and infrastructure projects in Roosevelt county;

82. to the city of Albuquerque in Bernalillo county for road and infrastructure projects;

83. to Bernalillo county for road, building, equipment, refinancing and infrastructure projects in Bernalillo county;

84. to the village of Los Ranchos de Albuquerque in Bernalillo county for road, building, land, equipment and infrastructure projects;

85. to the town of Bernalillo in Sandoval county for road, water rights and infrastructure projects;

86. to the city of Rio Rancho in Sandoval county for road and infrastructure projects;

87. to the village of Los Lunas in Valencia county for road, building, equipment, refinancing and infrastructure projects;

88. to the Pueblo of San Felipe in Sandoval county for road, building, equipment, refinancing and infrastructure projects;

89. to the Pueblo of Sandia in Sandoval county for road, building and infrastructure projects;

90. to Sandoval county for road and infrastructure projects in Sandoval county;

91. to the Pueblo of Santa Ana in Sandoval county for road and infrastructure projects;

92. to the Pueblo of Zia in Sandoval county for road, building and infrastructure projects;

93. to the city of Belen in Valencia county for road, equipment, building, refinancing and infrastructure projects;
94. to the village of Bosque Farms in Valencia county for road and infrastructure projects;
95. to the Pueblo of Laguna in Cibola county for road and infrastructure projects;
96. to the village of Angel Fire in Colfax county for road, building, equipment, refinancing and infrastructure projects;
97. to the village of Cimarron in Colfax county for road and infrastructure projects;
98. to Colfax county for road, building and infrastructure projects in Colfax county;
99. to the village of Eagle Nest in Colfax county for road, building, equipment, refinancing and infrastructure projects;
100. to the city of Raton in Colfax county for road and infrastructure projects;
101. to the town of Springer in Colfax county for road and infrastructure projects;
102. to the city of Santa Rosa in Guadalupe county for road and infrastructure projects;
103. to Harding county for road and infrastructure projects in Harding county;
104. to the village of Mosquero in Harding county for road and infrastructure projects;
105. to the village of Roy in Harding county for road and infrastructure projects;
106. to Mora county for road and infrastructure projects in Mora county;
107. to the village of House in Quay county for road and infrastructure projects;
108. to the city of Tucumcari in Quay county for road and infrastructure projects;
109. to the city of Las Vegas in San Miguel county for road and infrastructure projects;
110. to the village of Pecos in San Miguel county for road and infrastructure projects;

111. to the town of Clayton in Union county for road and infrastructure projects;
112. to the city of Farmington in San Juan county for road, building, equipment, refinancing and infrastructure projects;
113. to the town of Estancia in Tarrant county for road, building and infrastructure projects;
114. to the city of Moriarty in Tarrant county for road and infrastructure projects;
115. to the town of Mountainair in Tarrant county for road and infrastructure projects;
116. to the village of Willard in Tarrant county for road and infrastructure projects;
117. to Los Alamos county for road and infrastructure projects in Los Alamos county;
118. to the Pueblo of Ohkay Owingeh in Rio Arriba county for road and infrastructure projects;
119. to the Jicarilla Apache Nation in Rio Arriba and Sandoval counties for road, building, land, refinancing, equipment and infrastructure projects;
120. to Rio Arriba county for road, building, land, refinancing, equipment and infrastructure projects in Rio Arriba county;
121. to the Pueblo of Nambe in Santa Fe county for road, building and infrastructure projects;
122. to the Pueblo of Pojoaque in Santa Fe county for road, building and infrastructure projects;
123. to the Pueblo of Tesuque in Santa Fe county for road, building and infrastructure projects;
124. to Santa Fe county for road, land and infrastructure projects in Santa Fe county;
125. to the Pueblo of Picuris in Taos county for road and infrastructure projects;
126. to the village of Questa in Taos county for road, building and infrastructure projects;
127. to the town of Red River in Taos county for road and infrastructure projects;

128. to Taos county for road and infrastructure projects in Taos county;
129. to the Pueblo of Taos in Taos county for road and infrastructure projects;
130. to the Navajo Nation department of transportation in McKinley and San Juan counties for road, equipment, building, refinancing and infrastructure projects;
131. to San Juan county for road, equipment, building, refinancing and infrastructure projects in San Juan county;
132. to the city of Santa Fe in Santa Fe county for road and infrastructure projects;
133. to the village of Jemez Springs in Sandoval county for road and infrastructure projects;
134. to the village of San Ysidro in Sandoval county for road and infrastructure projects;
135. to the Pueblo of Acoma in Cibola county for road, building and infrastructure projects;
136. to the city of Grants in Cibola county for road, building, equipment, refinancing and infrastructure projects;
137. to the village of Milan in Cibola county for road and infrastructure projects;
138. to the city of Gallup in McKinley county for road, equipment, building, refinancing, land and infrastructure projects;
139. to McKinley county for road, equipment, building, refinancing and infrastructure projects in McKinley county;
140. to the Pueblo of Zuni in McKinley county for road and infrastructure projects;
141. to northern New Mexico state school in Rio Arriba county for equipment, infrastructure, building and refinancing projects;
142. to Mesalands community college in Quay county for building, equipment, infrastructure and refinancing projects;
143. to the village of Des Moines in Union county for equipment, building, refinancing and infrastructure projects;
144. to the Cibola county-Lobo Canyon fire department for equipment, building and infrastructure projects in Cibola county;

145. to the Eldorado area water and sanitation district in Santa Fe county for water, infrastructure, land and refinancing projects;

146. to San Miguel county for road projects in San Miguel county; and

147. to Cibola county for land and water rights projects in Cibola county.

## **Chapter 32 Section 2 Laws 2007**

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 2009 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 32 Section 3 Laws 2007**

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 24, as amended,

with emergency clause,

Approved March 15, 2007

# **LAWS 2007, CHAPTER 33**

*AN ACT*

*RELATING TO TAXATION; PROVIDING A DEDUCTION FROM GROSS RECEIPTS FOR RECEIPTS FROM ADMISSIONS TO NONATHLETIC SPECIAL EVENTS AT CERTAIN POST-SECONDARY EDUCATIONAL INSTITUTIONS.*

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

## **Chapter 33 Section 1 Laws 2007**

Section 1. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS--NONATHLETIC SPECIAL EVENT AT POST-SECONDARY EDUCATIONAL INSTITUTION.--Receipts received from July 1, 2007 through June 30, 2012 from admissions to a nonathletic special event held at a venue that is located on the campus of a post-secondary educational institution within fifty miles of the New Mexico border and that accommodates at least ten thousand persons may be deducted from gross receipts."

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House Bill 143,

Approved March 15, 2007

## **LAWS 2007, CHAPTER 34**

### AN ACT

RELATING TO THE CONSERVATION OF NATURAL RESOURCES; ENACTING THE SUSTAINABLE DEVELOPMENT TESTING SITE ACT; PROVIDING FOR THE APPROVAL OF AREAS TO BE USED FOR NONINDUSTRIAL RESEARCH AND TESTING DESIGNED TO REDUCE THE CONSUMPTION OF AND DEPENDENCE ON NATURAL RESOURCES BY RESIDENTIAL DEVELOPMENT; PROVIDING THAT SPECIFIED COUNTY CODES, ORDINANCES, RULES AND PERMITS ARE NOT APPLICABLE TO CERTAIN RESEARCH ACTIVITIES WITHIN AN APPROVED AREA.

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

### **Chapter 34 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "Sustainable Development Testing Site Act".

### **Chapter 34 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the Sustainable Development Testing Site Act:

A. "permittee" means a person who holds a testing site permit;

B. "planning commission" means a county planning commission appointed pursuant to Section 4-57-1 NMSA 1978; provided that, if no county planning commission has been appointed pursuant to that section, "planning commission" means the board of county commissioners;

C. "sustainable development" means a live-in environment composed of structures and systems that inherently produce utilities and life-support systems free of existing conventional grids and disposal systems. "Sustainable development" includes:

- (1) the inherent provision of on-site energy needs via renewable resources;
- (2) the inherent provision of water needs while minimizing the withdrawals from ground water and surface water systems in accordance with state water law and the rules and policies of the state engineer;
- (3) the inherent provision of sewage treatment needs with zero discharge;
- (4) the reuse of materials discarded by modern society; and
- (5) the development of organic foods and fuel;

D. "sustainable development research" means activities conducted at a sustainable development testing site that test ideas, concepts or inventions designed to lead ultimately to sustainable development;

E. "sustainable development testing site" means an area that is:

- (1) two acres or less in size;
- (2) situated wholly outside the planning and platting jurisdiction of a municipality; and
- (3) subject to a testing site permit and existing federal laws and regulations; and

F. "testing site permit" means a permit, issued by a planning commission, that designates an area as a sustainable development testing site and specifies:

- (1) the sustainable development research that can be conducted within the site by the permittee; and
- (2) the county codes, ordinances, rules or permits that are not applicable to the permittee and the research.

## **Chapter 34 Section 3 Laws 2007**

Section 3. APPLICATION FOR TESTING SITE PERMIT-- EVALUATION--  
NOTICE OF PUBLIC HEARING.--

A. A person desiring a testing site permit shall submit an application to the planning commission for the county in which the proposed sustainable development testing site is located. The application shall include:

(1) a detailed description of the sustainable development research that will be conducted on the sustainable development testing site, including an explanation of the ideas, concepts and inventions that will be tested;

(2) a schematic layout of the sustainable development testing site;

(3) the number of inhabitants and employees that are expected to occupy the sustainable development testing site;

(4) a water budget detailing the anticipated indoor and outdoor water use for the sustainable development testing site;

(5) an assessment of the county codes, ordinances, rules or permits relating to construction or building requirements, occupancy, zoning or subdivisions that are not practicable for the specific sustainable development testing site and that may inhibit the proposed sustainable development research and an explanation of how the sustainable development testing site will not be damaged if the proposed sustainable development research at the site is allowed;

(6) an application fee, set by the planning commission, equal to the estimated costs of evaluating the application, holding the public hearing and administering the permit;

(7) other information as may be required by rules adopted pursuant to Section 8 of the Sustainable Development Testing Site Act or by rule of the planning commission or ordinance of the county; and

(8) copies of all required state permits, including the approval of the wastewater treatment and disposal technology on an experimental basis.

B. Upon receipt of a complete application, the planning commission shall:

(1) forward a copy of the application to the office of the state engineer and to the department of environment;

(2) set a date for a public hearing on the application; and

(3) publish in a newspaper of general circulation in the county an announcement of its receipt of the application, a notice of the public hearing and information concerning where an interested person can obtain a copy of the application.

C. The department of environment and the office of the state engineer shall, prior to the hearing, evaluate the application and the proposed sustainable development research to be performed at the proposed sustainable development testing site and submit comments to the planning commission.

## **Chapter 34 Section 4 Laws 2007**

### **Section 4. APPLICATION FOR TESTING SITE PERMIT--PUBLIC HEARING-- DECISION.--**

A. At the public hearing for a testing site permit application pursuant to Section 3 of the Sustainable Development Testing Site Act, the planning commission shall hear comments from all interested persons, federal, state or local agencies and, if appropriate, responses from the applicant.

B. Following the hearing, the planning commission shall, in writing, make its decision. The planning commission may issue a testing site permit if:

(1) the state engineer and the department of environment have determined that the sustainable development testing site or sustainable development research proposed to be conducted at the site will not damage land, water or air adjacent to the site or will not permanently damage the area of the site;

(2) no existing county codes, ordinances, rules or permits, other than those identified in the permit, will be violated by the proposed sustainable development research at the sustainable development testing site;

(3) the applicant has complied with rules adopted pursuant to Section 8 of the Sustainable Development Testing Site Act;

(4) the proposed sustainable development research at the sustainable development testing site is beneficial to sustainable development;

(5) the sustainable development testing site and proposed sustainable development research are otherwise beneficial to the county and to the state; and

(6) the applicant has provided a cash bond, an irrevocable letter of credit or any other surety, including insurance, satisfactory to the planning commission, in the amount of one hundred thousand dollars (\$100,000), to secure payment for damage caused by the sustainable development testing site.

C. A testing site permit shall include:

(1) the specific sustainable development research that may be conducted at the sustainable development testing site;

(2) the maximum number of structures that may be constructed;

(3) the maximum number of individuals that may inhabit the sustainable development testing site;

(4) the specific county codes, ordinances, rules and permits relating to construction or building requirements, occupancy, zoning or subdivisions otherwise applicable to the permittee and the permittee's sustainable development research on the sustainable development testing site but that do not apply to the permittee and research conducted pursuant to the permit; and

(5) other restrictions on the sustainable development testing site and the permittee's activities as required by rules adopted pursuant to Section 8 of the Sustainable Development Testing Site Act or as determined by the planning commission.

D. For each testing site permit issued, the board of county commissioners shall designate a nonelected member of the planning commission or a member of the planning commission's staff to monitor the activities conducted pursuant to the permit, share information with appropriate state agencies and represent the county in interpreting the terms and conditions of the permit. The designee or a successor shall serve during the life of the permit and any renewal thereof.

E. The permit shall be filed and recorded in the records of the county clerk for the county in which the sustainable development testing site is located in the same manner as deeds of real estate are filed and recorded.

F. A testing site permit shall be issued for a term specified by the planning commission, not to exceed five years, subject to renewal for a second five-year period with no renewal after the second five-year period.

## **Chapter 34 Section 5 Laws 2007**

Section 5. TESTING SITE PERMIT--EFFECT.--As long as a testing site permit is in effect:

A. the permittee, when conducting sustainable development research that is specified in the testing site permit, shall comply with all applicable laws and rules except those county codes, ordinances, rules or permits specified in the permit as inapplicable to the permittee and the research;

B. nothing in the Sustainable Development Testing Site Act or the testing site permit shall be deemed to allow the permittee to appropriate or otherwise use underground or surface water without first obtaining a water rights permit or approval from the state engineer. New appropriations of water and water rights transfers shall in no event be exempted from state water law and the rules of the state engineer;

C. employees and agents of the state or the county may, at all reasonable times, enter the sustainable development testing site for the purpose of inspecting the site and activities conducted on the site to ensure that conditions specified in the testing site permit are being met;

D. the permittee shall annually, no later than the anniversary date of the testing site permit, submit a report to the planning commission, the department of environment, the state engineer, the energy, minerals and natural resources department and the construction industries division of the regulation and licensing department describing the sustainable development research conducted during the preceding twelve months and summarizing the results. The report shall also include all required monitoring data for soil, water, including water quality and quantity, and air. All information contained in the report and all other information learned from activities pursuant to the testing site permit shall be made available to the public;

E. the planning commission may revoke the testing site permit if it finds, after a public hearing, that:

(1) the permittee has violated a testing site permit provision, a provision of the Sustainable Development Testing Site Act or a rule adopted pursuant to Section 8 of that act; or

(2) the sustainable development testing site has not complied with a permit provision, ordinance, rule, regulatory policy or other associated administrative action of the state engineer, the department of environment or another state or federal agency; and

F. a permittee may apply to have a testing site permit amended by submitting a new application pursuant to Section 3 of the Sustainable Development Testing Site Act; provided that, if the planning commission determines that the proposed amendment will not substantially alter the sustainable development research or other activities conducted at the sustainable development testing site, it may waive the requirements of that section for notice and public hearing.

## **Chapter 34 Section 6 Laws 2007**

Section 6. EXPIRATION OF TESTING SITE PERMITS.--Upon the expiration of the term of a testing site permit or any renewal thereof:

A. all activities within the area of the sustainable development testing site shall comply with all applicable laws, ordinances or rules, including permitting requirements; and

B. the permittee may provide the wastewater treatment and disposal technologies to the wastewater technical advisory committee for review and, if appropriate, for listing by the department of environment as approved for use.

## **Chapter 34 Section 7 Laws 2007**

Section 7. SALE OF LAND WITHIN A SUSTAINABLE DEVELOPMENT TESTING SITE.--Land within a sustainable development testing site shall not be sold in whole or in part unless:

A. the subsequent owner obtains a testing site permit pursuant to the provisions of the Sustainable Development Testing Site Act; or

B. the owner or subsequent owner enters into an agreement with the planning commission to bring the land and improvements within the sustainable development testing site into compliance with all county codes, ordinances, rules or permits that would be applicable to the site in the absence of a testing site permit.

## **Chapter 34 Section 8 Laws 2007**

Section 8. PROMULGATION OF RULES.--A county or planning commission may define a new category of rules applicable to sustainable development testing sites and promulgate rules for the category. A county or a planning commission may also promulgate rules or permit conditions applicable to a specific sustainable development testing site.

## **Chapter 34 Section 9 Laws 2007**

Section 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 269, as amended

Approved March 15, 2007

## **LAWS 2007, CHAPTER 35**

AN ACT

RELATING TO THE DESECRATION OF ROADSIDE MEMORIALS; ESTABLISHING PENALTIES.

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

## **Chapter 35 Section 1 Laws 2007**

Section 1. A new section of the Criminal Code is enacted to read:

"DESECRATION OF ROADSIDE MEMORIALS--PENALTY.--

A. A person shall not knowingly or willfully deface or destroy, in whole or in part, a descanso, also known as a memorial, placed alongside a public road right of way to memorialize the death of one or more persons.

B. A person who violates the provisions of Subsection A of this section is:

(1) for a first offense, guilty of a petty misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978; and

(2) for a second and subsequent offense, guilty of a misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

C. The provisions of this section shall not apply to law enforcement officials or other employees of the state or a political subdivision of the state who in the course of the lawful discharge of their duties move or remove a descanso that obstructs or damages any public road in this state or to an owner of private property upon which a descanso is located."

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House Bill 333, as amended

Approved March 15, 2007

## **LAWS 2007, CHAPTER 36**

AN ACT

RELATING TO LAND GRANTS; AMENDING CHAPTER 49, ARTICLE 1 NMSA 1978 TO INCLUDE THE TOWN OF TOME LAND GRANT-MERCED.

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

### **Chapter 36 Section 1 Laws 2007**

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

"49-1-2. APPLICATION.--

A. Sections 49-1-1 through 49-1-18 NMSA 1978 shall apply to all land grants-mercedes confirmed by the congress of the United States or by the court of private land

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

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

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

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House Bill 468, as amended

Approved March 15, 2007

## **LAWS 2007, CHAPTER 37**

### **AN ACT**

RELATING TO PUBLIC SAFETY; CREATING A UNIFORM CRIME REPORTING SYSTEM; REQUIRING THE DEPARTMENT OF PUBLIC SAFETY TO COMPILE STATISTICAL DATA ON CRIME INCIDENT AND ARREST REPORTS STATEWIDE; REQUIRING LOCAL LAW ENFORCEMENT AGENCIES TO SUBMIT CRIME INCIDENT INFORMATION TO THE DEPARTMENT.

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

### **Chapter 37 Section 1 Laws 2007**

Section 1. UNIFORM CRIME REPORTING SYSTEM ESTABLISHED--DUTIES OF DEPARTMENT.--

A. The department of public safety shall develop, operate and maintain a uniform crime reporting system and shall be the central repository for the collection, storage, retrieval and analysis of crime incident and arrest reports generated by all law enforcement agencies in this state. The system shall be operational as of January 1, 2008.

B. The department shall:

(1) compile statistical data and forward such data as required to the federal bureau of investigation or the appropriate department of justice agency in accordance with standards and procedures of the national system;

(2) provide forms, standards and procedures and related training to state and local law enforcement agencies as necessary for the agencies to report incident and arrest activity for inclusion in the statewide system;

(3) in conjunction with the New Mexico sentencing commission, annually publish a report on the nature and extent of crime in New Mexico and submit the report to the governor and to the legislature;

(4) maintain the privacy and security of information in accordance with applicable state and federal laws; and

(5) establish rules as necessary to implement the provisions of this section.

C. Every law enforcement agency in the state shall:

(1) submit crime incident reports to the department of public safety on forms or in the format prescribed by the department;

(2) submit any other crime incident information as may be required by the department of public safety; and

(3) use the state uniform statutory charge codes for the automated fingerprint identification system and use uniform crime incident reporting as provided by the department for all incidents and arrests.

D. The annual report and other statistical data reports generated by the department shall be made available to state and local law enforcement agencies and the general public.

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House Bill 508, as amended

Approved March 15, 2007

## **LAWS 2007, CHAPTER 38**

AN ACT

RELATING TO SOLAR ENERGY DEVELOPMENT; PROVIDING FOR RULEMAKING TO ESTABLISH STANDARDS FOR NEW CONSTRUCTION TO ACCOMMODATE

SOLAR COLLECTORS; REPEALING SECTION 71-6-9 NMSA 1978 (BEING LAWS 1981, CHAPTER 379, SECTION 19, AS AMENDED).

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

### **Chapter 38 Section 1 Laws 2007**

Section 1. Section 71-6-4 NMSA 1978 (being Laws 1981, Chapter 379, Section 14) is amended to read:

"71-6-4. SHORT TITLE.--Sections 71-6-4 through 71-6-10 NMSA 1978 may be cited as the "Solar Collector Standards Act"."

### **Chapter 38 Section 2 Laws 2007**

Section 2. Section 71-6-6 NMSA 1978 (being Laws 1981, Chapter 379, Section 16) is amended to read:

"71-6-6. DEFINITIONS.--As used in the Solar Collector Standards Act:

A. "department" means the energy, minerals and natural resources department; and

B. "solar collector" means a component that provides for the collection and transfer of incident solar energy, such transfer to be effected through a liquid or air medium primarily by mechanical means for use in water heating, space heating or cooling or other applications that normally require or would require a conventional source of energy such as petroleum products, natural gas or electricity; but does not include a passive system that uses structural elements of a building to provide for the collection, storage and distribution of solar energy for heating or cooling without the use of a motor-driven fan or pump."

### **Chapter 38 Section 3 Laws 2007**

Section 3. Section 71-6-7 NMSA 1978 (being Laws 1981, Chapter 379, Section 17, as amended) is amended to read:

"71-6-7. DEPARTMENT--DUTIES RELATING TO SOLAR COLLECTOR STANDARDS.--

A. The department shall promulgate rules to:

(1) define minimum standards for the durability and reliability of solar collectors; and

(2) establish criteria for testing the durability, reliability and thermal efficiency of solar collectors.

B. In promulgating the rules required by Subsection A of this section, the department shall:

(1) consult with scientists, engineers and individuals in research centers and professional societies such as the American society of testing and materials who are engaged in the construction of, experimentation with and research of solar energy systems in order to make changes, modifications and improvements to the standards and certification program;

(2) consider compliance costs to industry and, insofar as practicable, make efforts to reduce such costs; and

(3) consider similar standards and testing criteria adopted by other states or included in nationally recognized and accepted testing methodologies.

C. The department shall approve testing facilities that meet the criteria established by Paragraph (2) of Subsection A of this section and that have no financial interest in the manufacture, distribution or sale of solar collectors. An approved testing facility that is partially or wholly supported by state funds may collect a reasonable testing fee sufficient to cover the costs of testing."

## **Chapter 38 Section 4 Laws 2007**

Section 4. Section 71-6-8 NMSA 1978 (being Laws 1981, Chapter 379, Section 18, as amended) is amended to read:

"71-6-8. CERTIFICATION.--

A. A person who manufactures, distributes or sells solar collectors may apply to the department for certification of the collectors. The department shall certify the solar collectors if:

(1) the applicant submits test results performed by an approved testing facility that show that the collectors meet the minimum standards of durability and reliability and that indicate the thermal efficiency of the collectors; or

(2) the applicant submits test results that show that the collectors meet the minimum standards of durability and reliability and that indicate the thermal efficiency of the collectors and the applicant submits proof that the collectors have been certified or approved by another state or the federal government and, in the opinion of the secretary of energy, minerals and natural resources, the minimum standards and testing criteria of the other state or the federal government are at least as stringent as those established pursuant to the Solar Collector Standards Act.

B. The department shall maintain accurate records of all solar collectors that have been certified pursuant to Subsection A of this section, including the test results submitted to the department. The records shall be available for public inspection.

C. Not more than once every two years, the department may require any applicant for which solar collectors have been previously certified pursuant to this section to submit additional or more recent test results. If the applicant continues to meet the requirements of Subsection A of this section, the certification of the solar collectors shall be continued. If the applicant fails to submit the additional or more recent test results or if the applicant fails to continue to meet the requirements of Subsection A of this section, the department shall withdraw the certification previously issued and shall so notify the applicant.

D. The department shall promulgate rules necessary to implement the provisions of this section."

## **Chapter 38 Section 5 Laws 2007**

Section 5. A new section of the Solar Collector Standards Act is enacted to read:

"CONSTRUCTION STANDARDS TO ACCOMMODATE SOLAR COLLECTORS--RULEMAKING.--The department, the construction industries division of the regulation and licensing department and the construction industries commission shall jointly promulgate rules, standards or codes that establish requirements for new construction that will accommodate the installation of solar collectors to or on the new construction after that construction is otherwise complete, including roof orientation, roof strength, location of obstructions to sunlight, access to installation locations, built-in conduit, wiring and piping and brackets for attaching solar collectors."

## **Chapter 38 Section 6 Laws 2007**

Section 6. A new section of the Construction Industries Licensing Act is enacted to read:

"DIVISION AND COMMISSION--STANDARDS TO ACCOMMODATE SOLAR COLLECTORS.--As provided in the Solar Collector Standards Act, the division and commission shall jointly with the energy, minerals and natural resources department promulgate rules, standards or codes that establish requirements for new construction that will accommodate the installation of solar collectors to or on the new construction after the construction is otherwise complete."

## **Chapter 38 Section 7 Laws 2007**

Section 7. REPEAL.--Section 71-6-9 NMSA 1978 (being Laws 1981, Chapter 379, Section 19, as amended) is repealed.

## **Chapter 38 Section 8 Laws 2007**

Section 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 610

Approved March 15, 2007

## **LAWS 2007, CHAPTER 39**

AN ACT

RELATING TO REGULATION OF HORSE RACING; ENACTING THE HORSE RACING ACT; PROVIDING FOR LICENSING AND REGULATION OF HORSE RACING; PROVIDING FOR COOPERATIVE COMPLETION OF BACKGROUND INVESTIGATIONS WITH THE GAMING CONTROL BOARD; DISTRIBUTING PROCEEDS FROM PARI-MUTUEL WAGERS; PROVIDING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

### **Chapter 39 Section 1 Laws 2007**

Section 1. A new Section 60-1A-1 NMSA 1978 is enacted to read:

"60-1A-1. SHORT TITLE.--Chapter 60, Article 1A NMSA 1978 may be cited as the "Horse Racing Act"."

### **Chapter 39 Section 2 Laws 2007**

Section 2. A new Section 60-1A-2 NMSA 1978 is enacted to read:

"60-1A-2. DEFINITIONS.--As used in the Horse Racing Act:

- A. "board" means the gaming control board;
- B. "breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of ten;
- C. "commission" means the state racing commission;

D. "exotic wagering" means all wagering other than on win, place or show, through pari-mutuel wagering;

E. "export" means to send a live audiovisual broadcast of a horse race in the process of being run at a horse racetrack from the originating horse racetrack to another location;

F. "guest state" means a jurisdiction, other than the jurisdiction in which a horse race is run, in which a horse racetrack, off-track wagering facility or other facility that is a member of and subject to an interstate common pool is located;

G. "guest track" means a horse racetrack, off-track wagering facility or other licensed facility in a location other than the state in which a horse race is run that is a member of and subject to an interstate common pool;

H. "handle" means the total of all pari-mutuel wagering sales, excluding refunds and cancellations;

I. "horse race" means a competition among racehorses on a predetermined course in which the horse completing the course in the least amount of time generally wins;

J. "host state" means the jurisdiction within which a sending track is located, also known as a "sending state";

K. "host track" means the horse racetrack from which a horse race subject to an interstate common pool is transmitted to members of that interstate common pool, also known as a "sending track";

L. "import" means to receive a live audiovisual broadcast of a horse race;

M. "interstate common pool" means a pari-mutuel pool that combines comparable pari-mutuel pools from one or more locations that accept wagers on a horse race run at a sending track for purposes of establishing payoff prices at the pool members' locations, including pools in which pool members from more than one state simultaneously combine pari-mutuel pools to form an interstate common pool;

N. "jockey club" means an organization that administers thoroughbred registration records and registers thoroughbreds;

O. "licensed premises" means land, together with all buildings, other improvements and personal property located on the land, that is under the direct control of a racetrack licensee, including the restricted areas, grandstand and public parking areas;

P. "licensee" means a person licensed by the commission and includes a holder of an occupational, secondary or racetrack license;

Q. "occupational license" means a license issued by the commission to a vendor or to a person having access to a restricted area on the licensed premises, including a horse owner, trainer, jockey, agent, apprentice, groom, exercise person, veterinarian, valet, farrier, starter, clocker, racing secretary, pari-mutuel clerk and other personnel designated by the commission whose work, in whole or in part, is conducted around racehorses or pari-mutuel betting windows;

R. "pari-mutuel wagering" means a system of wagering in which bets on a live or simulcast horse race are pooled and held by the racetrack licensee for distribution of the total amount, less the deductions authorized by law, to holders of winning tickets; "pari-mutuel wagering" does not include bookmaking or pool selling;

S. "pari-mutuel wagering pool" means the money wagered on a specific horse race through pari-mutuel wagering;

T. "practical breeder" means a person who has practical experience in breeding horses, although the person may not be actively involved in breeding horses;

U. "primary residence" means the domicile where a person resides for most of the year, and, if the person is temporarily out of state, the address where a person will return when the person returns to New Mexico or the address that a person uses for purposes of a driver's license, passport or voting;

V. "quarter horse" means a racehorse that is registered with the American quarter horse association or any successor association;

W. "race meet" means a period of time within dates specified by the commission in which a racetrack licensee is authorized to conduct live racing on the racing grounds;

X. "racehorse" means a quarter horse or thoroughbred that is bred and trained to compete in horse races;

Y. "racetrack license" means a license to conduct horse races issued by the commission;

Z. "racetrack licensee" means a person who has been issued a racetrack license;

AA. "racing grounds" means the area of the restricted area of licensed premises used for the purpose of conducting horse races and all activities ancillary to the conduct of horse races, including the track, stable area, jockey's quarters and horse training areas;

BB. "retainage" means money that is retained from wagers on win, place and show and on exotic wagers by a racetrack licensee pursuant to the Horse Racing Act;

CC. "restricted areas" means the stable area, the area behind the pari-mutuel betting windows and anywhere on the racing grounds;

DD. "secondary licensee" means all officers, directors, shareholders, lenders or holders of evidence of indebtedness of a corporation or legal entity owning a horse racetrack, and all persons holding a direct or indirect interest of any nature whatsoever in the horse racetrack, including interests or positions that deal with the funds of the racetrack or that are administrative, policymaking or supervisory;

EE. "simulcast" means a transmission of a live audiovisual broadcast of a horse race being run at a horse racetrack other than the horse racetrack or other licensed facility at which the broadcast is being received for viewing pursuant to a simulcasting contract;

FF. "stakes race" means a horse race in which nominations or entry or starting fees contribute to the purse; an overnight race is not a stakes race;

GG. "steward" means an employee of the commission who supervises horse races and oversees a race meet while in progress, including holding hearings regarding licensees and enforcing the rules of the commission and the horse racetrack;

HH. "takeout" means amounts authorized by statute to be deducted from the pari-mutuel wagers;

II. "thoroughbred" means a racehorse that is registered with the jockey club;

JJ. "track" means the surfaced oval area on which horse races are conducted; and

KK. "vendor" means a person who provides goods or services to or in the racing grounds or restricted area of the licensed premises of a horse racetrack."

## **Chapter 39 Section 3 Laws 2007**

Section 3. A new Section 60-1A-3 NMSA 1978 is enacted to read:

"60-1A-3. COMMISSION CREATED--APPOINTMENT OF MEMBERS--TERMS OF OFFICE.--

A. The "state racing commission" is created and is administratively attached to the tourism department.

B. The commission shall consist of five members, no more than three of whom shall be members of the same political party. The commission members shall be appointed by the governor and be confirmed by the senate. All members of the commission shall hold at-large positions on the commission.

C. At least three of the members of the commission shall be practical breeders of racehorses within New Mexico.

D. A commission member shall have primary residence in New Mexico and shall be of high character and reputation so that public confidence in the administration of horse racing is maintained.

E. The term of each member of the commission shall be six years from the date of the member's appointment. The member shall serve until a successor is appointed. In the case of a vacancy in the membership of the commission, the governor shall fill the vacancy by appointment for the unexpired term.

F. A person shall not be eligible for appointment as a member of the commission who is an officer, official or director in a corporation conducting horse racing within the state.

G. Members of the commission shall receive no salary, but each member of the commission shall receive per diem and mileage pursuant to the Per Diem and Mileage Act.

H. The commission may appoint an executive director and establish the executive director's duties and compensation."

## **Chapter 39 Section 4 Laws 2007**

Section 4. A new Section 60-1A-4 NMSA 1978 is enacted to read:

"60-1A-4. COMMISSION--POWERS--DUTIES.--

A. The commission may:

(1) grant, deny, suspend or revoke occupational licenses, secondary licenses and racetrack licenses, establish the terms for each classification of a racetrack license and set fees for submitting an application for a license;

(2) exclude or compel the exclusion of a person from all horse racetracks who the commission deems detrimental to the best interests of horse racing or who willfully violates the Horse Racing Act, a rule or order of the commission or a law of the United States or New Mexico;

(3) compel the production of documents, books and tangible items, including documents showing the receipts and disbursements of a racetrack licensee;

(4) investigate the operations of a licensee and place a designated representative on the licensed premises of a racetrack licensee for the purpose of observing compliance with the Horse Racing Act and rules or orders of the commission;

(5) employ staff as required to administer the Horse Racing Act and employ staff with basic law enforcement training to be stationed at racetracks to maintain peace and order, enforce the law, conduct investigations and enforce the Horse Racing Act or rules or orders of the commission; provided that staff employed with law enforcement training may not carry firearms or other deadly weapons while on duty for the commission;

(6) summon witnesses;

(7) administer oaths for the effective discharge of the commission's authority; and

(8) appoint a hearing officer to conduct hearings required by the Horse Racing Act or a rule adopted pursuant to that act.

B. The commission shall:

(1) make rules to hold, conduct and operate all race meets and horse races held in the state and to identify and assign racing dates;

(2) require the following information for each applicant on an application for a license:

(a) the full name, address and contact information of the applicant, and if the applicant is a corporation, the name of the state of incorporation and the names, addresses and contact information of officers, members of the board of directors and managers of the corporation;

(b) the exact location at which the applicant desires to conduct a horse race or race meet;

(c) whether the horse racetrack is owned or leased, and, if leased, the name and residence of the fee owner of the land or, if the owner is a corporation, the names of the directors and stockholders;

(d) a statement of the assets and liabilities of the person or corporation making the application;

(e) the kind of racing to be conducted;

(f) the beginning and ending dates desired for the race meet and the days during that time period when horse races are to be scheduled; and

(g) other information determined by the commission to be necessary to assess the potential for success of the applicant;

(3) require a statement under oath by the applicant that the information on the application is true;

(4) supervise and oversee the making of pari-mutuel pools and the distribution from those pools;

(5) make on-site inspections of horse racetracks in New Mexico at reasonable intervals;

(6) approve all improvements proposed to be completed on the licensed premises of a horse racetrack, including extensions, additions or improvements of buildings, stables or tracks;

(7) monitor and oversee the pari-mutuel machines and equipment at all horse races or race meets held in the state;

(8) approve contracts for simulcasting, pari-mutuel wagering and capital improvements funded pursuant to Section 60-1A-20 NMSA 1978 entered into by horse racetracks;

(9) regulate the size of the purses to be offered at horse races run in the state;

(10) require background investigations of employees of a racetrack licensee as set forth in the rules of the commission; and

(11) provide an annual report to the governor regarding the commission's administration of horse racing in the state."

## **Chapter 39 Section 5 Laws 2007**

Section 5. A new Section 60-1A-5 NMSA 1978 is enacted to read:

"60-1A-5. COMMISSION RULES--ALL LICENSES--SUSPENSION, REVOCATION OR DENIAL OF LICENSES--PENALTIES.--

A. The commission shall adopt rules to implement the Horse Racing Act and to ensure that horse racing in New Mexico is conducted with fairness and that the participants and patrons are protected against illegal practices on the racing grounds.

B. Every license issued by the commission shall require the licensee to comply with the rules adopted by the commission. A racetrack licensee shall post printed copies of the rules in conspicuous places on the racing grounds and shall maintain them during the period when live horse races are being conducted.

C. The commission may suspend, revoke or deny renewal of a license of a person who violates the provisions of the Horse Racing Act or rules adopted pursuant to that act. The commission shall provide a licensee facing suspension, revocation or denial of renewal of a license reasonable notice and an opportunity for a hearing. The suspension, revocation or denial of renewal of a license shall not relieve the licensee from prosecution for the violations or from the payment of fines and penalties assessed the licensee by the commission.

D. The commission may impose civil penalties upon a licensee for a violation of the provisions of the Horse Racing Act or rules adopted by the commission. The fines shall not exceed ten thousand dollars (\$10,000) for each violation and shall be paid into the current school fund."

## **Chapter 39 Section 6 Laws 2007**

Section 6. A new Section 60-1A-6 NMSA 1978 is enacted to read:

"60-1A-6. CLASSIFICATION OF RACETRACK LICENSES.--

A. A license to conduct a race meet in New Mexico shall be classified as either a class A or class B license, determined by the commission as follows:

(1) a class A racetrack license shall be issued to a racetrack licensee who received from all race meets in the preceding calendar year a gross amount wagered through the pari-mutuel system of ten million dollars (\$10,000,000) or more; and

(2) a class B racetrack license shall be issued to a racetrack licensee who received from all race meets in the preceding calendar year a gross amount wagered through the pari-mutuel system of less than ten million dollars (\$10,000,000).

B. A new racetrack license to conduct a race meet in New Mexico shall be given a classification by the commission based on an estimate of the anticipated gross amounts projected to be received by the new racetrack licensee from all pari-mutuel wagering in the racetrack licensee's first full calendar year of racing. After the racetrack licensee's first full calendar year of racing, the commission shall review the classification and change it if necessary.

C. Each class of license is subject to all provisions of the Horse Racing Act, except as otherwise provided in that act. The commission shall adopt and promulgate rules necessary to provide for license classification."

## **Chapter 39 Section 7 Laws 2007**

Section 7. A new Section 60-1A-7 NMSA 1978 is enacted to read:

"60-1A-7. ALL LICENSE APPLICATIONS--BACKGROUND INVESTIGATIONS--RULES.--

A. A person applying for a license pursuant to the Horse Racing Act shall submit to a background investigation to be conducted by the board. The commission and the board shall adopt rules to coordinate the manner in which the background investigations are conducted. The rules shall at minimum require that:

(1) an applicant for a license or license renewal shall submit two fingerprint cards to the commission, with one card to be submitted to the board for a statewide check and the other card to be submitted to the federal bureau of investigation for a nationwide check;

(2) arrest record information from a law enforcement agency or the federal bureau of investigation and information obtained as a result of the background investigation conducted by the board is privileged and shall not be disclosed to persons not directly involved in the decision affecting the specific applicant;

(3) an applicant shall provide all of the information required by the commission; and

(4) the cost of the background investigation shall be paid by the applicant.

B. An applicant for a license who is denied the license by the commission shall have an opportunity to inspect and challenge the validity of the record on which the denial of the license was based."

## **Chapter 39 Section 8 Laws 2007**

Section 8. A new Section 60-1A-8 NMSA 1978 is enacted to read:

"60-1A-8. RACETRACK LICENSES--APPLICATIONS--SPECIFIC REQUIREMENTS.--

A. It is a violation of the Horse Racing Act for a person to hold a public horse race or a race meet for profit or gain in any manner unless the person has been issued a racetrack license by the commission and has been authorized by the commission to hold the horse race or race meet on specific dates.

B. An application for a racetrack license shall be submitted in writing on forms designated by the commission. An applicant shall affirm that information contained in

the application is true and accurate. The application shall be signed by the applicant or the applicant's agent, and the signature shall be notarized.

C. A racetrack license shall be valid for a period not to exceed one year. The commission may renew a racetrack license upon expiration of the term of the license.

D. Renewal applications for racetrack licenses shall be filed no later than June 1 of each year. The race dates for the upcoming year shall be set by the commission after the commission receives all renewal applications.

E. An application shall specify the dates and days of the week of the race meet that the applicant is requesting the commission to approve.

F. An application shall be filed not less than sixty days prior to the first day the proposed horse race or race meet is to be held.

G. The fee for a new racetrack license issued pursuant to this section shall not exceed five thousand dollars (\$5,000).

H. The commission may schedule a date for a hearing on the application for a new racetrack license to determine the eligibility of the applicant pursuant to the Horse Racing Act or as needed for determining the eligibility for the renewal of a racetrack license. The applicant shall be notified of the hearing at least five days prior to the date of the hearing. The applicant has the right to present testimony in support of the application. Notice shall be mailed to the address of the applicant appearing upon the application for the racetrack license. Notice of the hearing date, time and location shall be postmarked by United States mail five days prior to the date of the hearing. Deposit of the hearing notice in United States mail constitutes notice.

I. If, after a hearing on the application, the commission finds the applicant ineligible pursuant to the provisions of the Horse Racing Act or rules adopted by the board, the racetrack license shall be denied.

J. If there is more than one application for a racetrack license pending at the same time, the commission shall determine the racing days that will be allotted to each successful applicant. Upon renewal, the commission shall determine the racing days that will be allotted to each applicant upon terms and conditions established by the commission.

K. A person shall not have a direct, indirect or beneficial interest of any nature, whether or not financial, administrative, policymaking or supervisory, in more than two horse racetracks in New Mexico. For purposes of this subsection, a person shall not be considered to have a direct, indirect or beneficial interest in a horse racetrack if the person owns or holds less than ten percent of the total authorized, issued and outstanding shares of a corporation that is licensed to conduct a race meet in New Mexico, unless the person has some other direct, indirect or beneficial interest of any

nature, whether or not financial, administrative, policymaking or supervisory, in more than two licensed horse racetracks.

L. To determine interest held in a racetrack, to the extent that the interest is based on stock ownership:

(1) stock owned, directly or indirectly, by or for a corporation, partnership, estate or trust shall be considered as being owned proportionately by its shareholders, partners or beneficiaries;

(2) an individual shall be considered as owning the stock, directly or indirectly, if it is held by an immediate family member. For purposes of this paragraph, an "immediate family member" includes only the individual's siblings, spouse or children; and

(3) stock constructively owned by a person by reason of the application of Paragraph (1) of this subsection shall be considered to be actually owned by the person; and stock shall be constructively owned by an individual by reason of the application of Paragraph (2) of this subsection if the purpose of the constructive ownership is to make a person other than the individual applicant appear as the owner of the stock.

M. A corporation holding a racetrack license shall not issue to a person shares of its stock amounting to ten percent or more of the total authorized, issued and outstanding shares, and a corporation holding a racetrack license shall not issue shares of its stock that would, when combined with that stock transferee's existing shares owned, total more than ten percent of the total authorized, issued and outstanding shares of the corporation, unless:

(1) the corporation gives written notice to the commission at least sixty days before the contemplated stock transfer that the person to whom the stock is being transferred will become an owner of ten percent or more of the total authorized, issued and outstanding shares of the corporation; and

(2) the corporation receives written approval from the commission of the proposed transfer.

N. A determination made by the commission of a matter pursuant to this section shall be final and not subject to appeal."

## **Chapter 39 Section 9 Laws 2007**

Section 9. A new Section 60-1A-9 NMSA 1978 is enacted to read:

"60-1A-9. SECONDARY LICENSES--APPLICATIONS--SPECIFIC REQUIREMENTS.--

A. A person who is actively and directly engaged in the administration of a horse racetrack, whether in a financial, administrative, policymaking or supervisory capacity, shall hold a secondary license issued by the commission.

B. An application for a secondary license shall be submitted in writing on forms designated by the commission. An applicant shall affirm that information contained in the application is true and accurate. The application shall be signed by the applicant or the applicant's agent, and the signature shall be notarized.

C. If an applicant for a racetrack license is a corporation, all officers, directors, lenders or holders of evidence of indebtedness of the corporation and all persons who participate in any manner in a financial, administrative, policymaking or supervisory capacity are required to hold a secondary license issued by the commission.

D. A person who owns or holds, directly, indirectly or beneficially, ten percent or more of the total authorized, issued and outstanding shares of a corporation that is a racetrack licensee is required to hold a secondary license issued by the commission. If the commission finds that a person who owns or holds, directly, indirectly or beneficially, ten percent or more of the total authorized, issued and outstanding shares of a corporation that is a racetrack licensee is unqualified to be issued a secondary license, the commission shall give notice of its finding to the corporation and to the person owning or holding the interest. The ineligible person shall without delay offer the shares to the corporation for purchase. If the corporation does not elect to purchase the shares, the person owning or holding the interest may offer the interest to other purchasers, subject to prior approval of the purchasers by the commission.

E. A secondary license shall be valid for a period not to exceed three years. The commission may renew a secondary license upon expiration of the term of the license.

F. The fee for a secondary license issued pursuant to this section shall not exceed five hundred dollars (\$500)."

## **Chapter 39 Section 10 Laws 2007**

Section 10. A new Section 60-1A-10 NMSA 1978 is enacted to read:

"60-1A-10. OCCUPATIONAL LICENSES--APPLICATION--SPECIFIC REQUIREMENTS.--

A. A person required by the Horse Racing Act to have an occupational license shall apply for and may be issued an occupational license by the commission.

B. An application for an occupational license shall be submitted in writing on forms designated by the commission. An applicant shall affirm that information contained in the application is true and accurate. The application shall be signed by the applicant or the applicant's agent.

C. An occupational license shall be valid for a period not to exceed five years. The commission may renew an occupational license upon expiration of the term of the license.

D. The fee for an occupational license issued pursuant to this section shall not exceed one hundred dollars (\$100)."

## **Chapter 39 Section 11 Laws 2007**

Section 11. A new Section 60-1A-11 NMSA 1978 is enacted to read:

"60-1A-11. GRANTING A LICENSE--STANDARDS.--

A. A license shall not be issued or renewed unless the applicant has satisfied the commission that the applicant:

(1) is of good moral character, honesty and integrity;

(2) does not have prior activities, criminal record, reputation, habits or associations that:

(a) pose a threat to the public interest;

(b) pose a threat to the effective regulation and control of horse racing; or

(c) create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of horse racing, the business of operating a horse racetrack or the financial activities incidental to operating a horse racetrack;

(3) is qualified to be licensed consistent with the Horse Racing Act;

(4) has sufficient business probity, competence and experience in horse racing as determined by the commission;

(5) has proposed financing that is sufficient for the nature of the license and from a suitable source that meets the criteria set forth in this subsection; and

(6) is sufficiently capitalized pursuant to standards set by the commission to conduct the business covered by the license.

B. The commission shall establish by rule additional qualifications for a licensee as it deems in the public interest.

C. A person issued or applying for an occupational license who has positive test results for a controlled substance or who has been convicted of a violation of a federal or state controlled substance law shall be denied a license or shall be subject to revocation of an existing license unless sufficient evidence of rehabilitation is presented to the commission.

D. If the commission finds that an applicant for an occupational license or an occupational licensee has been convicted of any of the provisions of Subsection E of this section, the applicant shall be denied the occupational license or the occupational licensee shall have the occupational license revoked. An occupational license shall not be issued by the commission to an applicant or occupational licensee for a period of five years from the date of denial or revocation pursuant to this subsection.

E. An occupational license shall be denied or revoked if the applicant or occupational licensee, for the purpose of stimulating or depressing a race horse or affecting its speed or stamina during a race or workout, is found to have:

(1) administered, attempted to administer or conspired to administer to a race horse, internally, externally or by injection, a drug, chemical, stimulant or depressant, or other foreign substances not naturally occurring in a race horse, unless the applicant or occupational licensee has been specifically permitted to do so by the commission or a steward; or

(2) attempted to use, used or conspired with others to use an electrical or mechanical device, implement or instrument, except an ordinary whip, unless the applicant or occupational licensee has been specifically permitted by the commission or a steward to use the device, implement or instrument.

F. The burden of proving the qualifications of an applicant or licensee to be issued or have a license renewed shall be on the applicant or licensee.

G. A determination by the commission of a matter pursuant to this section shall be final and conclusive and not subject to appeal."

## **Chapter 39 Section 12 Laws 2007**

Section 12. A new Section 60-1A-12 NMSA 1978 is enacted to read:

"60-1A-12. STEWARDS--POWERS--DUTIES.--There shall be three stewards, licensed and employed by the commission, to supervise each horse race meet. One of the stewards shall be designated the presiding official steward of the race meet. Stewards, other than the presiding official steward, shall be employed subject to the approval of the racetrack licensee. All stewards shall be licensed or certified by a nationally recognized horse racing organization. Stewards shall exercise those powers and duties prescribed by commission rules. A decision or action of a steward may be reviewed or reconsidered by the commission."

## **Chapter 39 Section 13 Laws 2007**

Section 13. A new Section 60-1A-13 NMSA 1978 is enacted to read:

"60-1A-13. OFFICIAL CHEMIST--QUALIFICATIONS--DUTIES.--The commission shall designate at least one official chemist. An official chemist shall hold a doctorate degree in chemistry or a related field and shall be knowledgeable and experienced in the techniques used for testing the blood, urine and saliva of horses for drugs, chemicals, stimulants, depressants or other foreign substances not naturally occurring in a horse. The official chemist may be an employee of a private laboratory located in New Mexico or an employee of an agency of New Mexico. The official chemist shall exercise the duties prescribed by rules of the commission."

## **Chapter 39 Section 14 Laws 2007**

Section 14. A new Section 60-1A-14 NMSA 1978 is enacted to read:

"60-1A-14. TESTING SPECIMENS.--

A. The commission shall adopt rules applying to the handling and testing of urine and other specimens identified by the commission to be taken from racehorses.

B. Each specimen taken from a racehorse shall be divided into two or more samples, and:

(1) one sample shall be tested by the commission or its designated laboratory in order to detect the presence of unauthorized drugs, chemicals, stimulants, depressants or other foreign substances not naturally occurring in a horse; and

(2) the second sample shall be forwarded by the commission to the scientific laboratory division of the department of health.

C. After an inconclusive or positive test result on the sample tested by the commission or its designated laboratory and upon a written request from the president, executive director or manager of the New Mexico horsemen's association on forms designated by the commission, the scientific laboratory division shall transmit the corresponding second sample to the New Mexico horsemen's association.

D. The scientific laboratory division shall keep all samples in a controlled environment for a period of at least three months.

E. The commission shall contract with an independent laboratory to maintain a quality assurance program."

## **Chapter 39 Section 15 Laws 2007**

Section 15. A new Section 60-1A-15 NMSA 1978 is enacted to read:

"60-1A-15. PARI-MUTUEL WAGERING AUTHORIZED--GAMBLING STATUTES DO NOT APPLY.--

A. A racetrack licensee may conduct pari-mutuel wagering on live horse races or on simulcasted horse races.

B. Pari-mutuel wagering may be conducted only on the licensed premises where a live horse race is conducted or where a simulcast horse race is televised or projected on the racing grounds of the licensed premises of a racetrack licensee.

C. The sale to patrons present on the licensed premises of a racetrack licensee of pari-mutuel tickets or certificates is not gambling as defined in Section 30-19-2 or 30-19-3 NMSA 1978.

D. Placing a wager while on the licensed premises of a racetrack licensee is not placing a bet pursuant to Section 30-19-1 NMSA 1978.

E. The licensed premises of a horse racetrack is not a gambling place as defined in Section 30-19-1 NMSA 1978."

## **Chapter 39 Section 16 Laws 2007**

Section 16. A new Section 60-1A-16 NMSA 1978 is enacted to read:

"60-1A-16. SIMULCASTING.--

A. All simulcasting of horse races shall have prior approval of the commission, and the commission shall adopt rules concerning the simulcasting of horse races as provided in this section.

B. A racetrack licensee shall not be allowed to simulcast horse races unless that racetrack licensee offers at least seventeen days per year of pari-mutuel wagering on live horse races run on the premises of the racetrack licensee.

C. The commission may permit exporting of a horse race being run by a racetrack licensee to another racetrack licensee within New Mexico or exporting of a horse race from a racetrack licensee to another location holding a pari-mutuel or gaming license that allows simulcasting of a horse race from outside of the state or jurisdiction that licenses that out-of-state facility.

D. The commission may permit importing by a racetrack licensee of horse races that are being run at racetracks outside of the state licensed by a host state.

E. Pari-mutuel wagering on simulcast horse races shall be prohibited except on the licensed premises of a racetrack licensee during the licensee's race meet at the horse racetrack or when the racetrack licensee is importing a race meet from another New Mexico-licensed horse racetrack.

F. A New Mexico-licensed horse racetrack that is within a radius of eighty miles of any other New Mexico- licensed horse racetrack with a race meet in progress may only conduct pari-mutuel wagering on imported horse races if there is a written agreement between the two racetrack licensees allowing pari-mutuel wagering on imported horse races during the period of time that the live horse races are taking place."

## **Chapter 39 Section 17 Laws 2007**

Section 17. A new Section 60-1A-17 NMSA 1978 is enacted to read:

"60-1A-17. INTERSTATE COMMON POOL WAGERING--AUTHORIZED.--

A. Subject to the federal Interstate Horseracing Act of 1978, the commission may permit a racetrack licensee to participate in interstate common pools. All provisions of the Horse Racing Act that govern pari-mutuel wagering apply to pari-mutuel wagering in interstate common pools except as otherwise provided in this section.

B. Daily pari-mutuel tax and daily capital outlay tax shall not be imposed upon amounts wagered in an interstate common pool other than upon amounts wagered within New Mexico.

C. Subject to prior approval of the commission, the following provisions apply when a racetrack licensee participates in interstate common pools on a horse race that originates outside of New Mexico:

(1) a racetrack licensee may combine its pari-mutuel pools at the host track and other locations. The types of wagering, takeout, distribution of winnings and rules of racing in effect for pari-mutuel pools at the host track shall govern wagers placed in New Mexico and merged into the interstate common pool. Breakage for interstate common pools shall be calculated in accordance with the rules governing the host track and shall be distributed in a manner agreed upon by the racetrack licensee in New Mexico and the host track;

(2) with the concurrence of the host track, an interstate common pool that excludes the host track may be formed with the racetrack licensee in New Mexico and other locations outside of the host state. When an interstate common pool is formed pursuant to this paragraph, the commission may approve types of wagering, takeout, distribution of winnings, rules of racing and calculation of breakage that are different from those that are in effect in New Mexico; provided that the rules are applied consistently to all persons in the interstate common pool;

(3) the racetrack licensee may deduct from retainage resulting from an interstate common pool a reasonable fee to be paid to the person conducting the horse race at the host track for the privilege of conducting pari-mutuel wagering on the race and participating in the interstate common pool and for payment of costs incurred to transmit the simulcast horse race; and

(4) provisions of New Mexico law or contracts governing the distribution of daily pari-mutuel tax and daily capital outlay tax and breeders' or other awards and purses from the takeout from wagers placed in New Mexico shall remain in effect for wagers placed in an interstate common pool; provided that if the commission approves an adjustment in the takeout rate, the distribution of the takeout within New Mexico shall be adjusted proportionately to reflect the adjustment in the takeout rate; and provided further that with the concurrence of the racetrack licensee and the organization representing a majority of the breeders, horsemen or other persons entitled to shares of the distribution and subject to approval of the commission, the respective shares to breeders' or other awards or purses may be modified.

D. Subject to prior approval of the commission, the following provisions apply when a racetrack licensee in New Mexico participates in interstate common pools as a host track:

(1) a racetrack licensee may permit one or more of its horse races to be used for pari-mutuel wagering at, and may export a horse race to, one or more licensed sites outside of New Mexico. The racetrack licensee may also permit pari-mutuel pools in other locations to be combined with the racetrack licensee's comparable pari-mutuel wagering pools or with wagering pools established in other jurisdictions. The commission may modify its rules and adopt separate rules for the interstate common pools and their calculation of breakage; and

(2) except as otherwise provided in this section, New Mexico law or contracts governing the distribution of shares of the takeout for daily pari-mutuel tax or daily capital outlay tax and breeders' or other awards and purses shall remain in effect for amounts wagered within New Mexico in interstate common pools; provided that with the concurrence of the racetrack licensee of the host track and the organization representing a majority of the breeders, horsemen or other persons entitled to shares of the distribution, and subject to approval of the commission, the respective shares to breeders' or other awards or purses may be modified.

E. When the laws and rules of the host state and guest states permit, an interstate common pool may be established on a regional or other basis between two or more guest states and not include a merger into the host state's pari-mutuel wagering pool, in which case, one of the guest state's tracks shall serve as if it were the host track for the purposes of calculating the pari-mutuel wagering pool. An interstate common pool may include members located outside of the United States. Except as otherwise set forth in commission rules, participation by a person in an interstate common pool with wagering facilities in one or more states or jurisdictions shall not cause the

participating person to be deemed to be doing business in a jurisdiction other than the jurisdiction in which that person is physically located.

F. The commission may adopt rules necessary to implement this section."

## **Chapter 39 Section 18 Laws 2007**

Section 18. A new Section 60-1A-18 NMSA 1978 is enacted to read:

"60-1A-18. DAILY PARI-MUTUEL TAX--IMPOSED--RATE.--

A. The "daily pari-mutuel tax" is imposed on a racetrack licensee that offers pari-mutuel wagering at the racetrack licensee's licensed premises and shall be remitted to the taxation and revenue department for deposit in the general fund.

B. The daily pari-mutuel tax imposed on class A racetrack licensees pursuant to this section shall be:

(1) for each racing day a class A racetrack licensee offers pari-mutuel wagering on live on-track horse races, six hundred fifty dollars (\$650); provided, however, that a class A racetrack licensee shall deduct from the six hundred fifty dollars (\$650) and remit to the municipality in which the racetrack licensee is located one hundred fifty dollars (\$150) if the racetrack licensee is located in a municipality having a population according to the 2000 federal decennial census of:

(a) less than six thousand located in a county with a population of more than ten thousand but less than fifteen thousand; or

(b) more than eight thousand but less than ten thousand located in a county with a population of more than one hundred thousand but less than one hundred fifty thousand; and

(2) for each day a class A racetrack licensee offers no pari-mutuel wagering on live on-track horse races and offers solely pari-mutuel wagering on simulcast races pursuant to the Horse Racing Act, one-eighth percent of the racetrack licensee's gross daily handle, not to exceed three hundred dollars (\$300) per racing day.

C. The daily pari-mutuel tax imposed on a class B racetrack licensee pursuant to this section shall be:

(1) for each racing day a class B racetrack licensee offers pari-mutuel wagering on live on-track horse races, one-eighth percent of the racetrack licensee's gross daily handle, not to exceed three hundred dollars (\$300) per racing day; and

(2) for each day a class B racetrack licensee offers no pari-mutuel wagering on live on-track horse races and offers solely pari-mutuel wagering on simulcast races pursuant to the Horse Racing Act, one-eighth percent of the class B racetrack licensee's gross daily handle, not to exceed three hundred dollars (\$300) per racing day."

## **Chapter 39 Section 19 Laws 2007**

Section 19. A new Section 60-1A-19 NMSA 1978 is enacted to read:

"60-1A-19. RETAINAGE--NEW MEXICO HORSE BREEDERS' ASSOCIATION AND NEW MEXICO HORSEMEN'S ASSOCIATION--BREAKAGE--DISTRIBUTION OF RETAINED AMOUNTS.--

A. Each racetrack licensee shall notify the commission at least thirty days prior to each race meet of the amount of exotic wager retainage that the racetrack licensee will retain pursuant to Paragraph (1) or (2) of this subsection. There shall be an amount retained by the racetrack licensee equal to:

(1) for a class A racetrack licensee:

(a) nineteen percent of the gross amount wagered on win, place and show, of which: 1) eighteen and three-fourths percent shall be retained by the racetrack licensee; and 2) one-fourth percent shall be remitted to the taxation and revenue department for deposit in the general fund; and

(b) not less than twenty-one percent and not greater than twenty-five percent of the gross amount wagered in exotic wagers; and

(2) for a class B racetrack licensee:

(a) not less than eighteen and three-fourths percent and not greater than twenty-five percent of the gross amount wagered daily on win, place and show; and

(b) not less than twenty-one percent and not greater than thirty percent of the gross amount wagered in exotic wagers.

B. There shall be retained by a racetrack licensee for allocation to the New Mexico horse breeders' association amounts equal to:

(1) five-eighths percent of the gross amount wagered on win, place and show to be allocated weekly to the New Mexico horse breeders' association for further distribution pursuant to the provisions of Subsection D of Section 60-1A-24 NMSA 1978; and

(2) one and three-eighths percent of the gross amount wagered in exotic wagers to be allocated weekly to the New Mexico horse breeders' association for further distribution pursuant to the provisions of Subsection D of Section 60-1A-24 NMSA 1978.

C. The breakage from the gross amount wagered through pari-mutuel wagering shall be retained by the licensee and allocated as follows:

(1) fifty percent of the total breakage shall be retained by the racetrack licensee; and

(2) fifty percent of the total breakage shall be allocated by the racetrack licensee to enhance the race purses of established stakes races that include only New Mexico-bred horses that are registered with the New Mexico horse breeders' association. The New Mexico horse breeders' association shall distribute the percentage designated to purses pursuant to Subsection D of Section 60-1-24 NMSA 1978, subject to the approval of the commission.

D. All money resulting from the failure of patrons who purchased winning pari-mutuel tickets during a race meet to redeem their winning tickets before the end of the sixty-day period immediately succeeding the closing day of the race meet or from all money resulting from the failure of patrons who purchased pari-mutuel tickets that were entitled to a refund but were not refunded by the end of the sixty-day period immediately following the race meet shall be apportioned as follows:

(1) thirty-three and thirty-three hundredths percent shall be retained by the racetrack licensee;

(2) thirty-three and thirty-four hundredths percent shall be distributed to the New Mexico horse breeders' association to enhance each racetrack licensee's established overnight purses for races that include only horses registered as New Mexico bred pursuant to Paragraph (3) of Subsection D of Section 60-1A-24 NMSA 1978, subject to the approval of the commission; and

(3) thirty-three and thirty-three hundredths percent shall be allocated to the New Mexico horsemen's association for purses.

E. One-half percent of the gross amount wagered on simulcast horse races broadcast to a horse racetrack in New Mexico shall be distributed by the racetrack licensee to the New Mexico horsemen's association for medical benefits for the members of the New Mexico horsemen's association. The commission shall by rule provide for the timing and manner of the distribution required pursuant to this subsection and shall audit or arrange for an independent audit of the distributions required.

F. Amounts to be deducted from the retainage by the racetrack licensee from any form of wager made on the licensed premises of the racetrack licensee are:

- (1) the daily pari-mutuel tax imposed by Section 60-1A-18 NMSA 1978;
- (2) money allocated in this section to the New Mexico horse breeders' association;
- (3) money allocated by this section to the New Mexico horsemen's association;
- (4) expenses incurred to engage in intrastate simulcasting pursuant to the Horse Racing Act; provided that the deduction for a racetrack licensee shall be a portion of five percent of the gross amount wagered at all the sites receiving the same simulcast horse races and:
  - (a) the deduction for a racetrack licensee shall be an amount allocated to the racetrack licensee by agreement voluntarily reached between all the racetracks sending or receiving the same simulcast horse races; or
  - (b) the deduction for a racetrack licensee shall be an amount identified by the commission if all the racetracks sending or receiving the same simulcast horse races fail to reach a voluntary agreement on the level at which to set the rate of the deduction for expenses incurred for engaging in intrastate simulcasting; and
- (5) fees incurred to receive interstate simulcasts pursuant to the Horse Racing Act.

G. A racetrack licensee shall allocate to the New Mexico horse breeders' association five percent of the daily retainage on interstate common pools received from a guest state by a racetrack licensee. Of the net retainage from all wagers, after deductions:

- (1) fifty percent shall be allocated to purses; and
- (2) fifty percent shall be retained by the racetrack licensee."

## **Chapter 39 Section 20 Laws 2007**

Section 20. A new Section 60-1A-20 NMSA 1978 is enacted to read:

"60-1A-20. DAILY CAPITAL OUTLAY TAX--CAPITAL OUTLAY OFFSET--STATE FAIR COMMISSION DISTRIBUTION--DAILY LICENSE FEES.--

A. A "daily capital outlay tax" of two and three-sixteenths percent is imposed on the gross amount wagered each day at a racetrack where horse racing is conducted on the premises of a racetrack licensee and also on the gross amount wagered each day when a racetrack licensee is engaged in simulcasting pursuant to the Horse Racing Act.

After deducting the amount of offset allowed pursuant to this section, any remaining daily capital outlay tax shall be paid by the commission to the taxation and revenue department from the retainage of a racetrack licensee from on-site wagers made on the licensed premises of the racetrack licensee for deposit in the general fund. Of the daily capital outlay tax imposed pursuant to this subsection:

(1) for a class A racetrack licensee, not more than one-half of the daily capital outlay tax imposed on the first two hundred fifty thousand dollars (\$250,000) of the daily handle may be offset by the amount that the class A racetrack licensee expends for capital improvements or for long-term financing of capital improvements at the racetrack licensee's existing facility;

(2) for a class B racetrack licensee, not more than one-half of the daily capital outlay tax imposed on the first two hundred fifty thousand dollars (\$250,000) of the daily handle may be offset:

(a) in an amount not to exceed one-half of the offset allowed, the amount expended by the class B racetrack licensee for capital improvements; and

(b) in an amount not to exceed one-half of the offset allowed, the amount expended by the class B racetrack licensee for advertising, marketing and promoting horse racing in the state; and

(3) for both class A and class B racetrack licensees, an amount equal to one-half of the daily capital outlay tax is appropriated and transferred to the state fair commission for expenditure on capital improvements at the state fairgrounds and for expenditure on debt service on negotiable bonds issued for the state fairgrounds' capital improvements.

B. An additional daily license fee of five hundred dollars (\$500) shall be paid to the commission by the racetrack licensee for each day of live racing on the premises of the racetrack licensee.

C. Accurate records shall be kept by the racetrack licensee to show gross amounts wagered, retainage, breakage and amounts received from interstate common pools and distributions from gross amounts wagered, retainage, breakage and amounts received from interstate common pools, as well as other information the commission may require. Records shall be open to inspection and shall be audited by the commission, its authorized representatives or an independent auditor selected by the commission. The commission may prescribe the method in which records shall be maintained. A racetrack licensee shall keep records that are accurate, legible and easy to understand.

D. Notwithstanding any other provision of law, a political subdivision of the state shall not impose an occupational tax on a horse racetrack owned or operated by a racetrack licensee. A political subdivision of the state shall not impose an excise tax on

a horse racetrack owned or operated by a racetrack licensee. Local option gross receipts taxes authorized by the state may be imposed to the extent authorized and imposed by a subdivision of the state on a horse racetrack owned or operated by a racetrack licensee."

## **Chapter 39 Section 21 Laws 2007**

Section 21. A new Section 60-1A-21 NMSA 1978 is enacted to read:

"60-1A-21. INABILITY TO RECEIVE OR ADMINISTER DISTRIBUTIONS--NEW MEXICO HORSE BREEDERS' ASSOCIATION--NEW MEXICO HORSEMEN'S ASSOCIATION--COMMISSION AUTHORITY--NEW MEXICO-BRED HORSE REGISTRY.--

A. In the event that money allocated to the New Mexico horse breeders' association pursuant to Section 60-1A-19 NMSA 1978 cannot be received or administered by the New Mexico horse breeders' association, the commission or another organization designated by the commission and under the absolute control of the commission shall receive and administer the money that is allocated to be distributed by the New Mexico horse breeders' association pursuant to Section 60-1A-24 NMSA 1978. If the commission or its designee organization is required to receive, administer and distribute money on behalf of the New Mexico horse breeders' association, the maximum percentage of retainage from Paragraph (3) of Subsection D of Section 60-1A-24 NMSA 1978 shall be distributed by the commission to the New Mexico horse breeders' association as a fee to certify the dam and stud of New Mexico-bred horses from the registry maintained by the New Mexico horse breeders' association.

B. In the event that money allocated to the New Mexico horse men's association pursuant to the Horse Racing Act cannot be received or administered by the New Mexico horse men's association, the commission or another organization designated by the commission and under the absolute control of the commission shall receive and administer the money that is allocated by Section 60-1A-19 NMSA 1978 to the New Mexico horse men's association and distribute the money as required by Section 60-1A-19 NMSA 1978."

## **Chapter 39 Section 22 Laws 2007**

Section 22. A new Section 60-1A-22 NMSA 1978 is enacted to read:

"60-1A-22. PAYMENT OF TAXES--PAYMENT OF LICENSE FEES.--

A. Taxes imposed pursuant to the Horse Racing Act shall be remitted to the commission, and a notice of the remittance shall accompany the taxes paid by a racetrack licensee by the close of the business day on Thursday of every week. Failure to make weekly remittances by the racetrack licensee shall result in an assessment by

the commission against the racetrack licensee in an amount equal to one percent of the amount that was due to be submitted.

B. Fees for licenses issued by the commission shall be paid to the commission. Daily license fees imposed by Section 60-1A-20 NMSA 1978 shall be submitted to the commission by the racetrack licensee by the close of the business day on Thursday of each week of on-track or simulcast racing.

C. Except for three thousand dollars (\$3,000) to be retained by the commission in the horse racing suspense fund, daily license fees and taxes shall be submitted by the commission to the taxation and revenue department on a date to be set by the taxation and revenue department that is no later than the twenty-fifth day of the month following the month in which the fees and taxes are received from a racetrack licensee."

### **Chapter 39 Section 23 Laws 2007**

Section 23. A new Section 60-1A-23 NMSA 1978 is enacted to read:

"60-1A-23. HORSE RACING SUSPENSE ACCOUNT.--

A. The "horse racing suspense account" is created in the state treasury to hold funds remitted to the commission for payment of all legal claims for refunds.

B. Money in the horse racing suspense account exceeding three thousand dollars (\$3,000) shall be transferred to the taxation and revenue department for deposit in the general fund.

C. The money in the horse racing suspense account shall be used to pay claims for refunds that have been determined by the commission to be legally due to the remitter."

### **Chapter 39 Section 24 Laws 2007**

Section 24. A new Section 60-1A-24 NMSA 1978 is enacted to read:

"60-1A-24. BREEDERS' AWARDS.--

A. The New Mexico horse breeders' association shall create a fund to pay horse breeders of New Mexico-bred horses merit and incentive awards.

B. A racetrack licensee shall pay into a fund created by the New Mexico horse breeders' association an amount equal to ten percent of the first money of a purse won, except for stakes-race purses, at a horse race in New Mexico by a horse registered with the New Mexico horse breeders' association as a New Mexico-bred horse. From stakes-race purses, a racetrack licensee shall pay into the fund created by the New Mexico horse breeders' association an amount equal to ten percent of the added money.

C. The money deposited with the New Mexico horse breeders' association by a racetrack licensee pursuant to Subsection B of this section shall be paid weekly to the owner of the dam of the horse at the time that the animal was foaled upon certification of the commission and the New Mexico horse breeders' association.

D. In addition to the money distributed pursuant to Subsection B of this section, the New Mexico horse breeders' association shall distribute the money allocated to the New Mexico horse breeders' association pursuant to Subsections B, C and D of Section 60-1A-19 NMSA 1978 in the following manner and pursuant to rules adopted by the commission:

(1) forty-five percent of the money to the owners at the time the winners were foaled of the dams of the first-place winners;

(2) seven percent of the money to the owners at the time the winners were foaled of the studs that sired the first-place winners;

(3) no more than eight percent of the money to be retained by the New Mexico horse breeders' association for the purpose of administering the distribution program set forth in this section; and

(4) the remaining money to be divided among the first-, second- and third-place finishers during each race meet, provided that the first-, second- and third-place finishers are registered as New Mexico-bred horses with the New Mexico horse breeders' association.

E. The New Mexico horse breeders' association shall file a fiduciary bond with the commission in a face amount equal to the total money distributed during the previous calendar year pursuant to Subsection C of this section. The bond shall be executed by a surety company authorized to do business in New Mexico; provided that the fiduciary bond shall be in an amount not less than two million dollars (\$2,000,000)."

## **Chapter 39 Section 25 Laws 2007**

Section 25. A new Section 60-1A-25 NMSA 1978 is enacted to read:

"60-1A-25. VIOLATIONS OF HORSE RACING ACT--FOURTH DEGREE FELONY.--A person who willfully violates, attempts to violate or conspires to violate a requirement of the Horse Racing Act or a prohibition specifically set forth in the Horse Racing Act is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

## **Chapter 39 Section 26 Laws 2007**

Section 26. A new Section 60-1A-26 NMSA 1978 is enacted to read:

"60-1A-26. ILLEGAL USE OF PARI-MUTUEL WAGERING.--

A. A person shall not use pari-mutuel wagering except as permitted by the commission pursuant to the Horse Racing Act or pursuant to other state law providing licensing of persons to use pari-mutuel wagering.

B. A person who, directly or indirectly, uses pari-mutuel wagering in a manner that is not authorized by the commission or other state law is guilty of a fourth degree felony and upon conviction shall be sentenced pursuant to Section 31-18-15 NMSA 1978."

### **Chapter 39 Section 27 Laws 2007**

Section 27. A new Section 60-1A-27 NMSA 1978 is enacted to read:

"60-1A-27. PREDETERMINING HORSE RACES--INFLUENCING OR ATTEMPTING TO INFLUENCE--FOURTH DEGREE FELONY.--

A. A person shall not influence or attempt to influence the outcome of a horse race by offering money, a thing of value, a future benefit, a favor, preferred treatment or a form of pressure or threat.

B. A person shall not enter into an agreement with an owner, jockey, groom or any other person associated with or having an interest in a racehorse to predetermine the outcome of a horse race.

C. A person who influences or attempts to influence the outcome of a horse race or a person who enters into an agreement to predetermine the outcome of a horse race is guilty of a fourth degree felony and upon conviction shall be sentenced pursuant to Section 31-18-

15 NMSA 1978."

### **Chapter 39 Section 28 Laws 2007**

Section 28. A new Section 60-1A-28 NMSA 1978 is enacted to read:

"60-1A-28. AFFECTING SPEED OR STAMINA OF A RACE HORSE-- PENALTIES.--

A. A person administering, attempting to administer or conspiring with others to administer to a racehorse a drug, chemical, stimulant or depressant or other foreign substances not naturally occurring in a racehorse whether internally, externally or by injection for the purpose of stimulating or depressing the race horse or affecting the speed or stamina of the race horse during a horse race or workout is guilty of a fourth

degree felony and upon conviction shall be sentenced pursuant to Section 31-18-15 NMSA 1978.

B. A person who uses, attempts to use or conspires with others to use during a horse race or workout an electrically or mechanically prohibited device, implement or instrument, other than an ordinary whip, is guilty of a fourth degree felony and upon conviction shall be sentenced pursuant to Section 31-18-15 NMSA 1978.

C. A person who sponges the nostrils or trachea of a racehorse or who uses anything to injure a racehorse for the purpose of stimulating or depressing the racehorse or affecting the speed or stamina of the racehorse during a horse race or workout is guilty of a fourth degree felony and upon conviction shall be sentenced pursuant to Section 31-18-15 NMSA 1978.

D. It is prima facie evidence of intent to commit any of the crimes set forth:

(1) in Subsection A of this section for a person to be found within the racing grounds of a racetrack licensee, including the stands, stables, sheds or other areas where racehorses are kept, who possesses with the intent to use, sell, give away or otherwise transfer to another person a drug, chemical, stimulant or depressant or other foreign substance not naturally occurring in a racehorse to stimulate or depress a racehorse or to affect the speed or stamina of a racehorse;

(2) in Subsection B of this section for a person to be found within the racing grounds of a racetrack licensee, including the stands, stables, sheds or other areas where racehorses are kept, who possesses with the intent to use, sell, give away or otherwise transfer to another person an electrically or mechanically prohibited device, implement or instrument, other than an ordinary whip; and

(3) in Subsection C of this section for a person to be found within the racing grounds of a racetrack licensee, including the stands, stables, sheds or other areas where racehorses are kept, who possesses with the intent to use, sell, give away or otherwise transfer to another person paraphernalia or substances used to sponge the nostrils or trachea of a racehorse or that may be used to injure a racehorse for the purpose of stimulating or depressing the racehorse or affecting its speed or stamina during a horse race or workout."

## **Chapter 39 Section 29 Laws 2007**

Section 29. A new Section 60-1A-29 NMSA 1978 is enacted to read:

"60-1A-29. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The state racing commission is terminated on July 1, 2011 pursuant to the Sunset Act. The commission shall continue to operate according to the provisions of Chapter 60, Article 1A NMSA 1978 until July 1, 2012. Effective July 1, 2012, Chapter 60, Article 1A NMSA 1978 is repealed."

## Chapter 39 Section 30 Laws 2007

Section 30. Section 60-2E-7 NMSA 1978 (being Laws 1997, Chapter 190, Section 9, as amended) is amended to read:

"60-2E-7. BOARD'S POWERS AND DUTIES.--

A. The board shall implement the state's policy on gaming consistent with the provisions of the Gaming Control Act and the Bingo and Raffle Act. It has the duty to fulfill all responsibilities assigned to it pursuant to those acts, and it has all authority necessary to carry out those responsibilities. It may delegate authority to the executive director, but it retains accountability. The board is an adjunct agency.

B. The board shall:

(1) employ the executive director;

(2) make the final decision on issuance, denial, suspension and revocation of all licenses pursuant to and consistent with the provisions of the Gaming Control Act and the Bingo and Raffle Act;

(3) develop, adopt and promulgate all regulations necessary to implement and administer the provisions of the Gaming Control Act and the Bingo and Raffle Act;

(4) conduct itself, or employ a hearing officer to conduct, all hearings required by the provisions of the Gaming Control Act and other hearings it deems appropriate to fulfill its responsibilities;

(5) meet at least once each month; and

(6) prepare and submit an annual report in December of each year to the governor and the legislature, covering activities of the board in the most recently completed fiscal year, a summary of gaming activities in the state and any recommended changes in or additions to the laws relating to gaming in the state.

C. The board may:

(1) impose civil fines not to exceed twenty-five thousand dollars (\$25,000) for the first violation and fifty thousand dollars (\$50,000) for subsequent violations of any prohibitory provision of the Gaming Control Act or any prohibitory provision of a regulation adopted pursuant to that act;

(2) conduct investigations;

(3) subpoena persons and documents to compel access to or the production of documents and records, including books and memoranda, in the custody or control of a licensee;

(4) compel the appearance of employees of a licensee or persons for the purpose of ascertaining compliance with provisions of the Gaming Control Act or a regulation adopted pursuant to its provisions;

(5) administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition were pursuant to discovery rules in a civil action in the district court;

(6) sue and be sued subject to the limitations of the Tort Claims Act;

(7) contract for the provision of goods and services necessary to carry out its responsibilities;

(8) conduct audits, relevant to their gaming activities, of applicants, licensees and persons affiliated with licensees;

(9) inspect, examine, photocopy and audit all documents and records of an applicant or licensee relevant to the applicant's or licensee's gaming activities in the presence of the applicant or licensee or the applicant's or licensee's agent;

(10) require verification of income and all other matters pertinent to the gaming activities of an applicant or licensee affecting the enforcement of any provision of the Gaming Control Act;

(11) inspect all places where gaming activities are conducted and inspect all property connected with gaming in those places;

(12) summarily seize, remove and impound from places inspected any gaming devices, property connected with gaming, documents or records for the purpose of examination or inspection;

(13) inspect, examine, photocopy and audit documents and records, relevant to the affiliate's gaming activities, of an affiliate of an applicant or licensee that the board knows or reasonably suspects is involved in the financing, operation or management of the applicant or licensee. The inspection, examination, photocopying and audit shall be in the presence of a representative of the affiliate or its agent when practicable;

(14) conduct background investigations pursuant to the Horse Racing Act;  
and

(15) except for the powers specified in Paragraphs (1) and (4) of this subsection, carry out all or part of the foregoing powers and activities through the executive director.

D. The board shall monitor all activity authorized in an Indian gaming compact between the state and an Indian nation, tribe or pueblo. The board shall appoint the state gaming representative for the purposes of the compact."

## **Chapter 39 Section 31 Laws 2007**

Section 31. Section 60-2E-14 NMSA 1978 (being Laws 1997, Chapter 190, Section 16, as amended) is amended to read:

"60-2E-14. LICENSURE--APPLICATION.--

A. The board shall establish and issue the following categories of licenses:

- (1) manufacturer;
- (2) distributor;
- (3) gaming operator; and
- (4) gaming machine.

B. The board shall issue certifications of findings of suitability for key executives and other persons for whom certification is required.

C. The board shall issue work permits for gaming employees.

D. A licensee shall not be issued more than one type of license, but this provision does not prohibit a licensee from owning, leasing, acquiring or having in the licensee's possession licensed gaming machines if that activity is otherwise allowed by the provisions of the Gaming Control Act. A licensee shall not own a majority interest in, manage or otherwise control a holder of another type of license issued pursuant to the provisions of that act.

E. An applicant for a license, a certification of finding of suitability or a work permit shall apply on forms provided by the board and shall furnish to the board two sets of fingerprint cards and all other information requested by the board. Submission of an application constitutes consent to a national criminal background check of the applicant, a credit check of the applicant and all persons having a substantial interest in the applicant and any other background investigations required pursuant to the Gaming Control Act or deemed necessary by the board. The board may obtain from the taxation and revenue department copies of tax returns filed by or on behalf of the applicant or its

affiliates and information concerning liens imposed on the applicant or its affiliates by the taxation and revenue department.

F. All licenses issued by the board pursuant to the provisions of this section shall be reviewed for renewal annually unless revoked, suspended, canceled or terminated.

G. A license shall not be transferred or assigned.

H. The application for a license shall include:

- (1) the name of the applicant;
- (2) the location of the proposed operation;
- (3) the gaming devices to be operated, manufactured, distributed or serviced;
- (4) the names of all persons having a direct or indirect interest in the business of the applicant and the nature of such interest; and
- (5) such other information and details as the board may require.

I. The board shall furnish to the applicant supplemental forms that the applicant shall complete and file with the application. The supplemental forms shall require two sets of fingerprint cards and complete information and details with respect to the applicant's antecedents, habits, immediate family, character, state and federal criminal records, business activities, financial affairs and business associates, covering at least a ten-year period immediately preceding the date of filing of the application.

J. In conducting a background investigation and preparing an investigative report on the applicant, the board's law enforcement officers may request and receive criminal history information from the federal bureau of investigation or any other law enforcement agency or organization. The board's law enforcement officers shall maintain confidentiality regarding information received from a law enforcement agency that may be imposed by the agency as a condition for providing the information to the board."

## **Chapter 39 Section 32 Laws 2007**

Section 32. Section 60-2E-16 NMSA 1978 (being Laws 1997, Chapter 190, Section 18) is amended to read:

"60-2E-16. ACTION BY BOARD ON APPLICATIONS.--

A. A person that the board determines is qualified to receive a license pursuant to the provisions of the Gaming Control Act may be issued a license. The burden of proving qualifications is on the applicant.

B. A license shall not be issued unless the board is satisfied that the applicant is:

(1) a person of good moral character, honesty and integrity;

(2) a person whose prior activities, state and federal criminal records, reputation, habits and associations do not pose a threat to the public interest or to the effective regulation and control of gaming or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto; and

(3) in all other respects qualified to be licensed consistent with the laws of this state.

C. A license shall not be issued unless the applicant has satisfied the board that:

(1) the applicant has adequate business probity, competence and experience in business and gaming;

(2) the proposed financing of the applicant is adequate for the nature of the proposed license and from a suitable source; any lender or other source of money or credit that the board finds does not meet the standards set forth in Subsection B of this section shall be deemed unsuitable; and

(3) the applicant is sufficiently capitalized under standards set by the board to conduct the business covered by the license.

D. An application to receive a license, certification or work permit constitutes a request for a determination of the applicant's general moral character, integrity and ability to participate or engage in or be associated with gaming. Any written or oral statement made in the course of an official proceeding of the board or by a witness testifying under oath that is relevant to the purpose of the proceeding is absolutely privileged and does not impose liability for defamation or constitute a ground for recovery in any civil action.

E. The board shall not issue a license or certification to an applicant who has been denied a license or certification in this state or another state, who has had a certification, permit or license issued pursuant to the gaming laws of a state or the United States permanently suspended or revoked for cause or who is currently under suspension or subject to any other limiting action in this state or another state involving gaming activities or licensure for gaming activities.

F. The board shall investigate the qualifications of each applicant before a license, certification or work permit is issued by the board and shall continue to observe and monitor the conduct of all licensees, work permit holders, persons certified as being suitable and the persons having a material involvement directly or indirectly with a licensee.

G. The board has the authority to deny an application or limit, condition, restrict, revoke or suspend a license, certification or permit for any cause.

H. After issuance, a license, certification or permit shall continue in effect upon proper payment of the initial and renewal fees, subject to the power of the board to revoke, suspend, condition or limit licenses, certifications and permits.

I. The board has full and absolute power and authority to deny an application for any cause it deems reasonable. If an application is denied, the board shall prepare and file its written decision on which its order denying the application is based."

## **Chapter 39 Section 33 Laws 2007**

### **Section 33. TEMPORARY PROVISIONS.--**

A. Members of the state racing commission who are on the commission on June 30, 2007 shall remain on the state racing commission and complete the terms to which they were appointed, or if the member's term expires on June 30, 2007, until a replacement is appointed.

B. All personnel, records, equipment, supplies and other property of the state racing commission on June 30, 2007 shall remain the personnel, records, equipment, supplies and property of the state racing commission created in this 2007 act.

C. Appropriations to and money held by or for the state racing commission that does not revert to the general fund or another fund on June 30, 2007 shall continue on July 1, 2007 to be held by or for the state racing commission created in this 2007 act.

## **Chapter 39 Section 34 Laws 2007**

Section 34. REPEAL.--Sections 60-1-1 through 60-1-26 NMSA 1978 (being Laws 1933, Chapter 55, Section 1, Laws 1977, Chapter 245, Section 123, Laws 1933, Chapter 55, Section 2, Laws 1955, Chapter 87, Section 2, Laws 1973, Chapter 323, Sections 3 and 4, Laws 1991, Chapter 7, Section 1, Laws 1933, Chapter 55, Sections 3 through 7, Laws 1973, Chapter 323, Section 7, Laws 1975, Chapter 189, Section 1, Laws 1933, Chapter 55, Sections 8 and 9, Laws 1992, Chapter 110, Section 2, Laws 1993, Chapter 300, Section 1, Laws 1933, Chapter 55, Section 10, Laws 1977, Chapter 161, Section 2, Laws 1965, Chapter 270, Section 1, Laws 1933, Chapter 55, Section 11, Laws 1947, Chapter 94, Sections 1 and 2, Laws 1975, Chapter 190, Section 1,

Laws 1973, Chapter 323, Sections 10 and 11, Laws 1991, Chapter 195, Sections 6 and 4 and Laws 1987, Chapter 333, Section 3, as amended) are repealed.

### **Chapter 39 Section 35 Laws 2007**

Section 35. EFFECTIVE DATE.--The effective date of the provisions of Sections 1 through 30, 33 and 34 of this act is July 1, 2007.

### **Chapter 39 Section 36 Laws 2007**

Section 36. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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House Bill 664, as amended,

with emergency clause,

Approved March 15, 2007

## **LAWS 2007, CHAPTER 40**

### **AN ACT**

RELATING TO CIVIL ACTIONS; ENACTING THE FRAUD AGAINST TAXPAYERS ACT; CREATING A PRIVATE CIVIL ACTION ON BEHALF OF THE STATE AGAINST A PERSON WHO MAKES A FALSE CLAIM FOR PAYMENT BY THE STATE; PROVIDING FOR INTERVENTION BY THE ATTORNEY GENERAL; PROVIDING FOR A CIVIL ACTION BY THE STATE; PROVIDING FOR QUI TAM AWARDS; PROHIBITING RETALIATION BY EMPLOYERS; PROVIDING PENALTIES.

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

### **Chapter 40 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "Fraud Against Taxpayers Act".

### **Chapter 40 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the Fraud Against Taxpayers Act:

A. "claim" means a request or demand for money, property or services when all or a portion of the money, property or services requested or demanded issues from or is provided or reimbursed by the state;

B. "employer" includes an individual, corporation, firm, association, business, partnership, organization, trust and the state and any of its agencies, institutions or political subdivisions;

C. "knowingly" means that a person, with respect to information, acts:

- (1) with actual knowledge of the truth or falsity of the information;
- (2) in deliberate ignorance of the truth or falsity of the information; or
- (3) in reckless disregard of the truth or falsity of the information;

D. "person" means an individual, corporation, firm, association, organization, trust, business, partnership, limited liability company, joint venture or any legal or commercial entity; and

E. "state" means the state of New Mexico or any of its branches, agencies, departments, boards, commissions, officers, institutions or instrumentalities, including the New Mexico finance authority, the New Mexico mortgage finance authority and the New Mexico lottery authority.

## **Chapter 40 Section 3 Laws 2007**

### **Section 3. FALSE CLAIMS--LIABILITY--PENALTIES--EXCEPTION.--**

A. A person shall not:

(1) knowingly present, or cause to be presented, to an employee, officer or agent of the state or to a contractor, grantee or other recipient of state funds a false or fraudulent claim for payment or approval;

(2) knowingly make or use, or cause to be made or used, a false, misleading or fraudulent record or statement to obtain or support the approval of or the payment on a false or fraudulent claim;

(3) conspire to defraud the state by obtaining approval or payment on a false or fraudulent claim;

(4) conspire to make, use or cause to be made or used, a false, misleading or fraudulent record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the state;

(5) when in possession, custody or control of property or money used or to be used by the state, knowingly deliver or cause to be delivered less property or money than the amount indicated on a certificate or receipt;

(6) when authorized to make or deliver a document certifying receipt of property used or to be used by the state, knowingly make or deliver a receipt that falsely represents a material characteristic of the property;

(7) knowingly buy, or receive as a pledge of an obligation or debt, public property from any person that may not lawfully sell or pledge the property;

(8) knowingly make or use, or cause to be made or used, a false, misleading or fraudulent record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the state; or

(9) as a beneficiary of an inadvertent submission of a false claim and having subsequently discovered the falsity of the claim, fail to disclose the false claim to the state within a reasonable time after discovery.

B. Proof of specific intent to defraud is not required for a violation of Subsection A of this section.

C. A person who violates Subsection A of this section shall be liable for:

(1) three times the amount of damages sustained by the state because of the violation;

(2) a civil penalty of not less than five thousand dollars (\$5,000) and not more than ten thousand dollars (\$10,000) for each violation;

(3) the costs of a civil action brought to recover damages or penalties; and

(4) reasonable attorney fees, including the fees of the attorney general or state agency counsel.

D. A court may assess not less than two times the amount of damages sustained by the state if the court finds all of the following:

(1) the person committing the violation furnished the attorney general with all information known to that person about the violation within thirty days after the date on which the person first obtained the information;

(2) at the time that the person furnished the attorney general with information about the violation, a criminal prosecution, civil action or administrative action had not been commenced with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation; and

(3) the person fully cooperated with any investigation by the attorney general.

E. This section does not apply to claims, records or statements made pursuant to the provisions of Chapter 7 NMSA 1978.

## **Chapter 40 Section 4 Laws 2007**

Section 4. INVESTIGATION BY THE ATTORNEY GENERAL--DELEGATION--CIVIL ACTION.--

A. The attorney general shall diligently investigate suspected violations of Section 3 of the Fraud Against Taxpayers Act, and if the attorney general finds that a person has violated or is violating that section, the attorney general may bring a civil action against that person pursuant to the Fraud Against Taxpayers Act.

B. The attorney general may in appropriate cases delegate the authority to investigate or to bring a civil action to the state agency to which a false claim was made, and when this occurs, the state agency shall have every power conferred upon the attorney general pursuant to the Fraud Against Taxpayers Act.

## **Chapter 40 Section 5 Laws 2007**

Section 5. CIVIL ACTION BY QUI TAM PLAINTIFF--STATE MAY INTERVENE.--

A. A person may bring a civil action for a violation of Section 3 of the Fraud Against Taxpayers Act on behalf of the person and the state. The action shall be brought in the name of the state. The person bringing the action shall be referred to as the qui tam plaintiff. Once filed, the action may be dismissed only with the written consent of the court, taking into account the best interest of the parties involved and the public purposes behind the Fraud Against Taxpayers Act.

B. A complaint filed by a qui tam plaintiff shall be filed in camera in district court and shall remain under seal for at least sixty days. No service shall be made on a defendant and no response is required from a defendant until the seal has been lifted and the complaint served pursuant to the rules of civil procedure.

C. On the same day as the complaint is filed, the qui tam plaintiff shall serve the attorney general with a copy of the complaint and written disclosure of substantially all material evidence and information the qui tam plaintiff possesses. The attorney general on behalf of the state may intervene and proceed with the action within sixty days after receiving the complaint and the material evidence and information. Upon a showing of good cause and reasonable diligence in the state's investigation, the state may move the court for an extension of time during which the complaint shall remain under seal.

D. Before the expiration of the sixty-day period or any extensions of time granted by the court, the attorney general shall notify the court that the state:

(1) intends to intervene and proceed with the action; in which case, the seal shall be lifted and the action shall be conducted by the attorney general on behalf of the state; or

(2) declines to take over the action; in which case, the seal shall be lifted and the qui tam plaintiff may proceed with the action.

E. When a person brings an action pursuant to this section, no person other than the attorney general on behalf of the state may intervene or bring a related action based on the facts underlying the pending action.

## **Chapter 40 Section 6 Laws 2007**

### **Section 6. RIGHTS OF THE QUI TAM PLAINTIFF AND THE STATE.--**

A. If the state proceeds with the action, it shall have the primary responsibility of prosecuting the action and shall not be bound by an act of the qui tam plaintiff. The qui tam plaintiff shall have the right to continue as a party to the action, subject to the limitations of this section.

B. The state may seek to dismiss the action for good cause notwithstanding the objections of the qui tam plaintiff if the qui tam plaintiff has been notified of the filing of the motion and the court has provided the qui tam plaintiff with an opportunity to oppose the motion and to present evidence at a hearing.

C. The state may settle the action with the defendant notwithstanding any objection by the qui tam plaintiff if the court determines, after a hearing providing the qui tam plaintiff an opportunity to present evidence, that the proposed settlement is fair, adequate and reasonable under all of the circumstances.

D. Upon a showing by the state that unrestricted participation during the course of the litigation by the qui tam plaintiff would interfere with or unduly delay the state's prosecution of the case, or would be repetitious, irrelevant or for the purpose of harassment, the court may, in its discretion, impose limitations on the qui tam plaintiff's participation, such as:

- (1) limiting the number of witnesses the qui tam plaintiff may call;
- (2) limiting the length of testimony of such witnesses;
- (3) limiting the qui tam plaintiff's cross examination of witnesses; or
- (4) otherwise limiting the qui tam plaintiff's participation in the litigation.

E. Upon a showing by a defendant that unrestricted participation during the course of litigation by the qui tam plaintiff would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the qui tam plaintiff in the litigation.

F. If the state elects not to proceed with the action, the qui tam plaintiff shall have the right to conduct the action. If the attorney general so requests, the qui tam plaintiff shall serve the attorney general with copies of all pleadings filed in the action and all deposition transcripts in the case, at the state's expense. When the qui tam plaintiff proceeds with the action, the court, without limiting the status and rights of the qui tam plaintiff, may permit the attorney general to intervene at a later date upon a showing of good cause.

G. Whether or not the state proceeds with the action, upon a showing by the attorney general on behalf of the state that certain actions of discovery by the qui tam plaintiff would interfere with the state's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than sixty days. The showing by the state shall be conducted in camera. The court may extend the sixty-day period upon a further showing in camera that the state has pursued the criminal or civil investigation or proceeding with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceeding.

H. Notwithstanding the provisions of Section 5 of the Fraud Against Taxpayers Act, the attorney general may elect to pursue the state's claim through any alternate remedy available to the state, including an administrative proceeding to determine a civil money penalty. If an alternate remedy is pursued, the qui tam plaintiff shall have the same rights in such a proceeding as the qui tam plaintiff would have had if the action had continued pursuant to this section. A finding of fact or conclusion of law made in the other proceeding that has become final shall be conclusive on all parties to an action under the Fraud Against Taxpayers Act. For purposes of this subsection, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court, if all time for filing an appeal with respect to the finding or conclusion has expired or if the finding or conclusion is not subject to judicial review.

## **Chapter 40 Section 7 Laws 2007**

### **Section 7. AWARDS TO QUI TAM PLAINTIFF AND THE STATE.--**

A. Except as otherwise provided in this section, if the state proceeds with an action brought by a qui tam plaintiff and the state prevails in the action, the qui tam plaintiff shall receive:

(1) at least fifteen percent but not more than twenty-five percent of the proceeds of the action or settlement, depending upon the extent to which the qui tam plaintiff substantially contributed to the prosecution of the action; or

(2) no more than ten percent of the proceeds of the action or settlement if the court finds that the action was based primarily on disclosures of specific information, not provided by the qui tam plaintiff, relating to allegations or transactions in a criminal, civil, administrative or legislative hearing, proceeding, report, audit or investigation or from the news media, taking into account the significance of the information and the role of the qui tam plaintiff in advancing the case to litigation. However, if the attorney general determines and certifies in writing that the qui tam plaintiff provided a significant contribution in advancing the case, then the qui tam plaintiff shall receive the share of proceeds set forth in Paragraph (1) of this subsection.

B. If the state does not proceed with an action brought by a qui tam plaintiff and the state prevails in the action, the qui tam plaintiff shall receive an amount that is not less than twenty-five percent or more than thirty percent of the proceeds of the action or settlement, as the court deems reasonable for collecting the civil penalty and damages.

C. Whether or not the state proceeds with an action brought by a qui tam plaintiff:

(1) if the court finds that the action was brought by a person that planned or initiated the violation of Section 3 of the Fraud Against Taxpayers Act upon which the action was based, the court may reduce the share of the proceeds that the person would otherwise receive under Subsection A or B of this section, taking into account the role of the person as the qui tam plaintiff in advancing the case to litigation and any relevant circumstances pertaining to the violation; or

(2) if the person bringing the action is convicted of criminal conduct arising from that person's role in the violation of Section 3 of the Fraud Against Taxpayers Act upon which the action was based, that person shall be dismissed from the civil action and shall not receive a share of the proceeds. The dismissal shall not prejudice the right of the state to continue the action.

D. Any award to a qui tam plaintiff shall be paid out of the proceeds of the action or settlement, if any. The qui tam plaintiff shall also receive an amount for reasonable expenses incurred in the action plus reasonable attorney fees that shall be paid by the defendant.

E. The state is entitled to all proceeds collected in an action or settlement not awarded to a qui tam plaintiff. The state is also entitled to reasonable expenses incurred in the action plus reasonable attorney fees, including the fees of the attorney general or state agency counsel that shall be paid by the defendant. Proceeds and penalties collected by the state shall be deposited as follows:

(1) proceeds in the amount of the false claim paid and attorney fees and costs shall be returned to the fund or funds from which the money, property or services came;

(2) civil penalties shall be deposited in the current school fund pursuant to Article 12, Section 4 of the constitution of New Mexico; and

(3) all remaining proceeds shall be deposited as follows:

(a) one-half into a fund for the use of the attorney general in furtherance of the obligations imposed upon that office by the Fraud Against Taxpayers Act; and

(b) one-half into the general fund.

## **Chapter 40 Section 8 Laws 2007**

Section 8. AWARD OF ATTORNEY FEES AND COSTS TO DEFENDANT.--If the state does not proceed with the action and the qui tam plaintiff conducts the action, the court may award a defendant reasonable attorney fees and costs if the defendant prevails and the court finds the action clearly frivolous, clearly vexatious or brought primarily for the purpose of harassment.

## **Chapter 40 Section 9 Laws 2007**

Section 9. CERTAIN ACTIONS BARRED.--

A. No court shall have jurisdiction over an action brought pursuant to Section 5 of the Fraud Against Taxpayers Act by a present or former employee of the state unless the employee, during employment with the state and in good faith, exhausted existing internal procedures for reporting false claims and the state failed to act on the information provided within a reasonable period of time.

B. No court shall have jurisdiction over an action brought pursuant to Section 5 of the Fraud Against Taxpayers Act against an elected or appointed state official, a member of the state legislature or a member of the judiciary if the action is based on evidence or information known to the state agency to which the false claim was made or to the attorney general when the action was filed.

C. Unless the attorney general determines and certifies in writing that the action is in the interest of the state, no court shall have jurisdiction over an action brought pursuant to Section 5 of the Fraud Against Taxpayers Act when that action is based on allegations or transactions that are the subject of a criminal, civil or administrative proceeding in which the state is a party.

D. Upon motion of the attorney general, a court may, in its discretion, dismiss an action brought pursuant to Section 5 of the Fraud Against Taxpayers Act if the elements of the alleged false or fraudulent claim have been publicly disclosed in the news media or in a publicly disseminated governmental report at the time the complaint is filed.

## **Chapter 40 Section 10 Laws 2007**

Section 10. STATE NOT LIABLE.--The state shall not be liable for expenses or fees that a qui tam plaintiff may incur in investigating or bringing an action pursuant to the Fraud Against Taxpayers Act.

## **Chapter 40 Section 11 Laws 2007**

Section 11. EMPLOYER INTERFERENCE WITH EMPLOYEE DISCLOSURE--  
PRIVATE ACTION FOR RETALIATION.--

A. An employer shall not make, adopt or enforce a rule, regulation or policy preventing an employee from disclosing information to a government or law enforcement agency or from acting in furtherance of a fraud against taxpayers action, including investigating, initiating, testifying or assisting in an action filed or to be filed pursuant to the Fraud Against Taxpayers Act.

B. An employer shall not discharge, demote, suspend, threaten, harass, deny promotion to or in any other manner discriminate against an employee in the terms and conditions of employment because of the lawful acts of the employee on behalf of the employee or others in disclosing information to a government or law enforcement agency or in furthering a fraud against taxpayers action, including investigating, initiating, testifying or assisting in an action filed or to be filed pursuant to the Fraud Against Taxpayers Act.

C. An employer that violates Subsection B of this section shall be liable to the employee for all relief necessary to make the employee whole, including reinstatement with the same seniority status that the employee would have had but for the violation, two times the amount of back pay with interest on the back pay, compensation for any special damage sustained as a result of the violation and, if appropriate, punitive damages. In addition, an employer shall be required to pay the litigation costs and reasonable attorney fees of the employee. An employee may bring an action pursuant to this section in any court of competent jurisdiction.

## **Chapter 40 Section 12 Laws 2007**

Section 12. LIMITATION OF ACTIONS--ESTOPPEL--STANDARD OF PROOF.--

A. A civil action pursuant to the Fraud Against Taxpayers Act may be brought at any time. A civil action pursuant to the Fraud Against Taxpayers Act may be brought for conduct that occurred prior to the effective date of that act, but not for conduct that occurred prior to July 1, 1987.

B. Notwithstanding any other provision of law, a final judgment rendered in a criminal proceeding charging fraud or false statement, whether upon a guilty verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of a fraud against taxpayers action where the criminal

proceeding concerns the same transaction that is the subject of the fraud against taxpayers action.

C. In an action brought pursuant to the Fraud Against Taxpayers Act, the state or the qui tam plaintiff shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

### **Chapter 40 Section 13 Laws 2007**

Section 13. JOINT AND SEVERAL LIABILITY.--Liability shall be joint and several for any act committed by two or more persons in violation of the Fraud Against Taxpayers Act.

### **Chapter 40 Section 14 Laws 2007**

Section 14. REMEDY NOT EXCLUSIVE.--The remedies provided for in the Fraud Against Taxpayers Act are not exclusive and shall be in addition to any other remedies provided for in any other law or available under common law.

### **Chapter 40 Section 15 Laws 2007**

Section 15. SEVERABILITY.--If any part or application of this act is held invalid, the remainder of the act and its application to other persons or situations shall not be affected.

### **Chapter 40 Section 16 Laws 2007**

Section 16. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Health and Government Affairs

Committee Substitute for House Bill 770

Approved March 15, 2007

## **LAWS 2007, CHAPTER 41**

AN ACT

RELATING TO PUBLIC SCHOOL INSURANCE; INCLUDING CERTAIN NONPROFIT ORGANIZATIONS IN THE DEFINITION OF "EDUCATIONAL ENTITIES" FOR INSURANCE COVERAGE BY THE PUBLIC SCHOOL INSURANCE AUTHORITY.

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

## **Chapter 41 Section 1 Laws 2007**

Section 1. Section 22-29-3 NMSA 1978 (being Laws 1986, Chapter 94, Section 3, as amended) is amended to read:

"22-29-3. DEFINITIONS.--As used in the Public School Insurance Authority Act:

A. "authority" means the public school insurance authority;

B. "board" means the board of directors of the authority;

C. "charter school" means a school organized as a charter school pursuant to the provisions of the Charter Schools Act;

D. "director" means the director of the authority;

E. "educational entities" means state educational institutions as enumerated in Article 12, Section 11 of the constitution of New Mexico and other state diploma, degree-granting and certificate-granting post-secondary educational institutions, regional education cooperatives and nonprofit organizations dedicated to the improvement of public education and whose membership is composed exclusively of public school employees, public schools or school districts;

F. "fund" means the public school insurance fund;

G. "group health insurance" means coverage that includes life insurance, accidental death and dismemberment, medical care and treatment, dental care, eye care and other coverages as determined by the authority;

H. "risk-related coverage" means coverage that includes property and casualty, general liability, auto and fleet, workers' compensation and other casualty insurance; and

I. "school district" means a school district as defined in Subsection R of Section 22-

1-2 NMSA 1978, excluding any school district with a student enrollment in excess of sixty thousand students."

## **Chapter 41 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 783

Approved March 15, 2007

## **LAWS 2007, CHAPTER 42**

### **WITH PARTIAL VETO**

#### **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; REAUTHORIZING BALANCES; CHANGING THE PURPOSE OF PRIOR APPROPRIATIONS; DECLARING AN EMERGENCY.

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

### **Chapter 42 Section 1 Laws 2007**

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 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 authorized 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 the issuance of the bonds for a particular project, including projects that have been reauthorized, by the end of fiscal year 2009, the authorization for that project is void.

C. Before an agency may certify for the issuance of severance tax bonds, the project must be developed sufficiently so that the agency reasonably expects to:

(1) incur within six months after the applicable bonds have been issued a substantial binding obligation to a third party to expend at least five percent of the bond proceeds for the project; and

(2) spend at least eighty-five percent of the bond proceeds within three years after the applicable bonds have been issued.

D. Except as otherwise provided in this section or another section of this act, the unexpended balance from the proceeds of severance tax bonds issued for a project, including projects that have been reauthorized, shall revert to the severance tax bonding fund as follows:

(1) for projects for which severance tax bonds were issued to match federal grants, six months after completion of the project;

(2) for projects for which severance tax bonds were issued to purchase vehicles, heavy equipment, educational technology or other equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the severance tax bonds were issued for the purchase;

(3) for projects for which severance tax bonds were issued to purchase emergency vehicles or other vehicles that require special equipment, at the end of the fiscal year two years following the fiscal year in which the severance tax bonds were issued for the purchase; and

(4) for all other projects for which severance tax bonds were issued, within six months of completion of the project, but no later than the end of fiscal year 2011.

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. 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 42 Section 2 Laws 2007**

Section 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--  
LIMITATIONS--REVERSIONS.--

A. Except as otherwise provided in this section or another section of this act, the unexpended balance of an appropriation made in this act from the general fund or other state fund, including changes to prior appropriations, shall revert to the originating fund as follows:

(1) for projects for which appropriations were made to match federal grants, six months after completion of the project;

(2) for projects for which appropriations were made to purchase vehicles, heavy equipment, educational technology or equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the appropriation was made for the purchase;

(3) for projects for which appropriations were made to purchase emergency vehicles or other vehicles that require special equipment, at the end of the fiscal year two years following the fiscal year in which the appropriation was made for the purchase; and

(4) for all other projects for which appropriations were made, within six months of completion of the project, but no later than the end of fiscal year 2011.

B. Upon certification by an agency that money from the general fund is needed for a purpose specified in this act, the secretary of finance and administration shall disburse such amount of the appropriation for that project as is necessary to meet that need.

C. Except for appropriations to the capital program fund, money from appropriations made in this act shall not be used to pay indirect project costs.

D. The unexpended balance of an appropriation made from the general fund or other state fund, including changes to prior appropriations, to the Indian affairs department or the aging and long-term services department for projects located on lands of an Indian nation, tribe or pueblo, including projects that have been reauthorized, shall revert in a time frame set forth in Subsection A of this section to the tribal infrastructure project fund.

E. For the purpose of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.

## **Chapter 42 Section 3 Laws 2007**

Section 3. ADMINISTRATIVE OFFICE OF THE COURTS PROJECT-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the administrative office of the courts that the need exists for the issuance of the bonds, two million dollars (\$2,000,000) is appropriated to the

administrative office of the courts for equipment for interpreters and jurors for the jury and witness program; security, recording and filing equipment for the magistrate courts; and furniture, security equipment, a vehicle and other courtroom equipment for district courts statewide.

## **Chapter 42 Section 4 Laws 2007**

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. three hundred thirty-three thousand dollars (\$333,000) to make improvements, including purchase and installation of equipment, to the North Valley senior center in Bernalillo county;
2. twenty-seven thousand seven hundred dollars (\$27,700) to make improvements for building-code compliance, including purchase and installation of equipment, at the Lake Arthur, Hagerman and Midway Joy senior centers in Chaves county;
3. thirty-eight thousand four hundred dollars (\$38,400) to make improvements for building-code compliance, including purchase and installation of equipment, to the Grants senior center in Cibola county;
4. five thousand dollars (\$5,000) to make improvements, including purchase and installation of equipment, to the Anthony senior center in Dona Ana county;
5. thirty thousand two hundred ninety dollars (\$30,290) to make improvements, including purchase and installation of equipment, to the Artesia senior center in Eddy county;
6. eight thousand five hundred dollars (\$8,500) to make improvements for building-code compliance, including purchase and installation of equipment, to the Mimbres Valley senior center in Grant county;
7. fifteen thousand dollars (\$15,000) to make improvements, including purchase and installation of equipment, to the Puerto de Luna senior center in Guadalupe county;
8. twelve thousand two hundred dollars (\$12,200) to make improvements for building-code compliance, including purchase and installation of equipment, to the Mosquero senior center in Harding county;

9. twenty-five thousand nine hundred thirty-five dollars (\$25,935) to make improvements, including purchase and installation of equipment, to the Ena Mitchell senior center in Lordsburg in Hidalgo county;

10. one hundred eighty-six thousand five hundred dollars (\$186,500) to make improvements for building-code compliance, including purchase and installation of equipment, to the Eunice senior center in Lea county;

11. nine thousand dollars (\$9,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Carrizozo Zia senior center in Lincoln county;

12. one hundred sixty thousand dollars (\$160,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Bread Springs chapter senior center on the Navajo Nation in McKinley county;

13. forty thousand dollars (\$40,000) to make improvements, including purchase and installation of equipment, to the Chichiltah chapter senior center on the Navajo Nation in McKinley county;

14. ninety-four thousand dollars (\$94,000) to make improvements, including purchase and installation of equipment, to the Lake Valley chapter senior center on the Navajo Nation in McKinley county;

15. ten thousand dollars (\$10,000) to make improvements, including purchase and installation of equipment, to the Manuelito chapter senior center on the Navajo Nation in McKinley county;

16. four thousand dollars (\$4,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Rock Springs chapter senior center on the Navajo Nation in McKinley county;

17. four thousand dollars (\$4,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Twin Lakes chapter senior center on the Navajo Nation in McKinley county;

18. five thousand dollars (\$5,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Wagon Mound and Mora senior centers in Mora county;

19. thirty-five thousand dollars (\$35,000) to make improvements, including purchase and installation of equipment, to the Cloudcroft senior center in Otero county;

20. ninety-four thousand five hundred dollars (\$94,500) to make improvements for building-code compliance, including purchase and installation of equipment, to the Tucumcari senior center in Quay county;

21. eighty thousand dollars (\$80,000) to make improvements, including purchase and installation of equipment, to the Coyote senior center in Rio Arriba county;

22. eighty thousand dollars (\$80,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Medanales senior center in Rio Arriba county;

23. thirty-five thousand eight hundred sixty-eight dollars (\$35,868) to make improvements for building-code compliance, including purchase and installation of equipment, to the Bonnie Dallas senior center in San Juan county;

24. eight thousand five hundred fifty-five dollars (\$8,555) to make improvements for building-code compliance, including purchase and installation of equipment, to the White Rock chapter of the Navajo Nation senior center in San Juan county;

25. fourteen thousand five hundred dollars (\$14,500) to make improvements for building-code compliance, including purchase and installation of equipment, to the San Miguel del Vado senior center in San Miguel county;

26. thirteen thousand two hundred dollars (\$13,200) to make improvements for building-code compliance, including purchase and installation of equipment, to the Bernalillo and Jemez senior centers in Sandoval county;

27. seventy-six thousand dollars (\$76,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Pueblo of Jemez senior center in Sandoval county;

28. fourteen thousand six hundred dollars (\$14,600) to make improvements, including purchase and installation of equipment, to the Pena Blanca senior center in Sandoval county;

29. sixty thousand dollars (\$60,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Zia elderly senior center in Sandoval county;

30. twenty-eight thousand dollars (\$28,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Pueblo of Santo Domingo senior center in Sandoval county;

31. six thousand dollars (\$6,000) to make improvements, including purchase and installation of equipment, to the Pueblo of Santo Domingo senior center in Sandoval county;

32. one hundred twenty-five thousand dollars (\$125,000) to make improvements for building-code compliance, including purchase and installation of equipment, to El Rancho senior center in Santa Fe county;

33. fifty-five thousand dollars (\$55,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Abedon Lopez senior center in Santa Fe county;

34. four thousand dollars (\$4,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Pueblo of Nambe senior center in Santa Fe county;

35. sixty-nine thousand six hundred dollars (\$69,600) to make improvements, including purchase and installation of equipment, to the Pueblo of Nambe senior center in Santa Fe county;

36. sixty thousand dollars (\$60,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Questa senior center in Taos county;

37. eight thousand dollars (\$8,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Amalia senior center in Taos county;

38. three thousand five hundred dollars (\$3,500) to make improvements for building-code compliance, including purchase and installation of equipment, to the Estancia senior center in Torrance county;

39. five thousand dollars (\$5,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Clayton senior center in Union county;

40. twenty-eight thousand dollars (\$28,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Meadow Lake senior center in Valencia county; and

41. two hundred thousand dollars (\$200,000) to make improvements for building-code compliance, including purchase and installation of equipment and an expansion, to the Del Rio senior center in Valencia county.

## **Chapter 42 Section 5 Laws 2007**

Section 5. COMMISSION FOR THE BLIND PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the commission for the blind that the need exists for the issuance of the bonds, two hundred thousand dollars (\$200,000) is appropriated to the commission for the blind to plan, design and construct improvements to the roof and fire protection sprinkler system at the commission for the blind office building in Albuquerque in Bernalillo county.

## **Chapter 42 Section 6 Laws 2007**

Section 6. CAPITAL PROGRAM FUND PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the capital program fund that the need exists for the issuance of the bonds, the following amounts are appropriated to the capital program fund for the following purposes:

1. one million six hundred fifty thousand dollars (\$1,650,000) for fire suppression improvements, roof repairs, upgrades to comply with the Americans with Disabilities Act of 1990 and kitchen and other renovations at the youth diagnostic development center in Albuquerque in Bernalillo county;

2. two million five hundred thousand dollars (\$2,500,000) to plan and design a gymnasium and weight room and construct vocational classrooms and bathrooms at the J. Paul Taylor juvenile justice center in Dona Ana county;

3. four hundred thousand dollars (\$400,000) to plan, design, construct, equip and improve an addition to the labor department office in Las Cruces in Dona Ana county;

4. two million five hundred thousand dollars (\$2,500,000) for land acquisition and to plan, design, construct and renovate a New Mexico state police district office in Las Cruces in Dona Ana county; ~~provided that it is the intent of the legislature to appropriate the funds to complete construction of this facility in fiscal year 2008;~~

5. five hundred thousand dollars (\$500,000) to plan, design, construct, equip and furnish an office facility for the border authority in Santa Teresa in Dona Ana county;

6. two million dollars (\$2,000,000) to acquire land and develop the site for and plan, design and construct a port of entry building in Lordsburg in Hidalgo county;

7. one million dollars (\$1,000,000) for grounds and security improvements at Camp Sierra Blanca, Eagle Nest, Maloof and youth diagnostic and development center facilities in multiple counties;

8. one million dollars (\$1,000,000) for stabilization, renovations and equipping of existing structures, including the administration building and parade grounds, at Fort Stanton in Lincoln county;

9. fifty thousand dollars (\$50,000) for repairs and renovations to the labor department facility in Alamogordo in Otero county;

10. one hundred thousand dollars (\$100,000) to renovate the Epi Duran building in Las Vegas in San Miguel county;

11. two million five hundred thousand dollars (\$2,500,000) for land acquisition and to plan, design, construct, renovate, furnish and equip a New Mexico state police district office in Las Vegas in San Miguel county; ~~provided that it is the intent of the~~

~~legislature to appropriate the funds to complete construction of this facility in fiscal year 2008;~~

12. two hundred fifty thousand dollars (\$250,000) to plan, design and improve the heating, ventilation and air conditioning system at the Manuel Lujan building in Santa Fe in Santa Fe county;

13. five hundred thousand dollars (\$500,000) to purchase and install printing equipment in the state printing and graphics shop in Santa Fe in Santa Fe county;

14. three million five hundred thousand dollars (\$3,500,000) for repairs, maintenance and equipment at state-owned corrections facilities statewide, including renovations and repairs at the facility in Springer;

15. five hundred thousand dollars (\$500,000) to plan, design, renovate and repair facilities and for information technology hazard mitigation statewide;

16. two million dollars (\$2,000,000) for capital improvements and renovations at public health clinics statewide; and

17. two hundred fifty thousand dollars (\$250,000) to plan, design and renovate the motor vehicle division field office in Taos in Taos county.

## **Chapter 42 Section 7 Laws 2007**

Section 7. CORRECTIONS DEPARTMENT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the corrections department that the need exists for the issuance of the bonds, one million dollars (\$1,000,000) is appropriated to the corrections department to plan, design, construct, equip and furnish a kitchen and roof, including repairs and replacement, at Camino Nuevo in Albuquerque in Bernalillo county.

## **Chapter 42 Section 8 Laws 2007**

Section 8. COURT OF APPEALS PROJECT--SEVERANCE TAX BONDS.-- Pursuant to the provisions of Section 1 of this act, upon certification by the court of appeals that the need exists for the issuance of the bonds, seven million eight hundred thousand dollars (\$7,800,000) is appropriated to the court of appeals to plan, design and construct phase 1 of a court of appeals building adjacent to the university of New Mexico law school in Albuquerque in Bernalillo county.

## **Chapter 42 Section 9 Laws 2007**

Section 9. CULTURAL AFFAIRS DEPARTMENT PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the cultural affairs department that the need exists for the issuance of the bonds, the

following amounts are appropriated to the cultural affairs department for the following purposes:

1. two hundred fifty thousand dollars (\$250,000) to construct, furnish, equip and upgrade existing and new facilities, including an education building, at the national Hispanic cultural center in Albuquerque in Bernalillo county;

2. one million dollars (\$1,000,000) to construct and improve the outdoor exhibits and facilities, including relocating a historic Lincoln county bridge and constructing livestock barns, a greenhouse and a wagon barn, at the New Mexico farm and ranch heritage museum in Las Cruces in Dona Ana county; and

3. two million two hundred thousand dollars (\$2,200,000) for renovations and repairs, including upgrades to comply with the Americans with Disabilities Act of 1990, at museums and monuments statewide, including expansion of small museums.

## **Chapter 42 Section 10 Laws 2007**

Section 10. CUMBRES AND TOLTEC SCENIC RAILROAD COMMISSION PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the Cumbres and Toltec scenic railroad commission that the need exists for the issuance of the bonds, one million dollars (\$1,000,000) is appropriated to the Cumbres and Toltec scenic railroad commission for locomotive and track upgrades and other improvements for the Cumbres and Toltec scenic railroad in Rio Arriba county.

## **Chapter 42 Section 11 Laws 2007**

Section 11. NEW MEXICO SCHOOL FOR THE DEAF PROJECT-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of New Mexico school for the deaf that the need exists for the issuance of the bonds, five million five hundred thousand dollars (\$5,500,000) is appropriated to the board of regents of New Mexico school for the deaf to plan, design and construct improvements to facilities and infrastructure at New Mexico school for the deaf in Santa Fe in Santa Fe county.

## **Chapter 42 Section 12 Laws 2007**

Section 12. PUBLIC EDUCATION DEPARTMENT PROJECT-- 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, three hundred thousand dollars (\$300,000) is appropriated to the public education department to renovate and equip a building for the Red River Valley charter school in the Questa independent school district in Taos county.

## **Chapter 42 Section 13 Laws 2007**

Section 13. ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECT--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, five hundred thousand dollars (\$500,000) is appropriated to the energy, minerals and natural resources department to acquire conservation easements to protect agricultural land use and water supplies statewide.

## **Chapter 42 Section 14 Laws 2007**

Section 14. 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. seven hundred fifty thousand dollars (\$750,000) to plan, design and construct renovations to facilities at Red Rock state park in Gallup in McKinley county; and
2. two million dollars (\$2,000,000) for improvements and equipment at parks statewide.

## **Chapter 42 Section 15 Laws 2007**

Section 15. 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. two hundred fifty thousand dollars (\$250,000) to plan, design and renovate diversion structures below Eagle Nest dam and reservoir in Colfax county; and
2. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements, including purchasing and installing related equipment, to Morphy lake and its earthen dams in Mora county.

## **Chapter 42 Section 16 Laws 2007**

Section 16. 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. nine hundred twenty thousand dollars (\$920,000) to plan, design, construct and equip an effluent reuse system in Clovis in Curry county;

2. three hundred thousand dollars (\$300,000) to plan, design and construct a transfer station in Fort Sumner in De Baca county;

3. eight hundred three thousand two hundred eighty-five dollars (\$803,285) to plan, design and construct water system improvements, including a new water line and well with connection to the arsenic treatment plant, for La Union mutual domestic sewer and water association in La Union in Dona Ana county;

4. four hundred thousand dollars (\$400,000) to plan, design, construct and improve the Double Eagle water system in Carlsbad in Eddy county;

5. seven hundred twenty thousand dollars (\$720,000) to plan, design and construct improvements to the regional wastewater treatment plant in Ruidoso Downs in Lincoln county;

6. one million one hundred thousand dollars (\$1,100,000) to plan, design, construct and equip a landfill and a transfer station, including closure of the existing landfill, in Deming in Luna county;

7. seven million dollars (\$7,000,000) to acquire rights of way for and plan, design and construct a pipeline on the eastern portion of the Navajo Nation in McKinley and San Juan counties;

8. four hundred thousand dollars (\$400,000) to design, construct and equip a solid waste landfill in Tucumcari in Quay county;

9. five hundred thousand dollars (\$500,000) to plan, design, construct and replace sewer lines in Chama in Rio Arriba county;

10. one million fourteen thousand two hundred eighty-five dollars (\$1,014,285) to plan, design, construct and equip reservoir number 3, including acquiring rights of way and property, in Aztec in San Juan county;

11. eight hundred twenty-five thousand dollars (\$825,000) to plan, design and construct water and wastewater system improvements, including reconditioning of a water storage tank and water system distribution lines, in Farmington in San Juan county;

12. five hundred thousand dollars (\$500,000) to plan, design, construct and equip water system improvements for El Valle water alliance in San Miguel county; and

13. six million four hundred seventy thousand dollars (\$6,470,000) to plan, design and construct a north central economic development area water and wastewater system in Rio Rancho in Sandoval county.

### **Chapter 42 Section 17 Laws 2007**

Section 17. 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, seven million six hundred fifty thousand dollars (\$7,650,000) is appropriated to the state fair commission to plan, design, construct, equip and furnish improvements to facilities and grounds at the state fairgrounds in Albuquerque in Bernalillo county.

### **Chapter 42 Section 18 Laws 2007**

Section 18. DEPARTMENT OF FINANCE AND ADMINISTRATION PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of finance and administration that the need exists for the issuance of the bonds, the following amounts are appropriated to the department of finance and administration for the following purposes:

1. two million five hundred thousand dollars (\$2,500,000) to plan, design, construct, purchase and renovate pre-kindergarten classrooms, including portables, statewide; and

2. five hundred thousand dollars (\$500,000) to plan, design and construct road improvements, including critical paving and drainage improvements on school bus routes, in the Rio del Oro road area in Valencia county.

### **Chapter 42 Section 19 Laws 2007**

Section 19. STATE FIRE MARSHAL PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the state fire marshal that the need exists for the issuance of the bonds, two hundred thousand dollars (\$200,000) is appropriated to the state fire marshal to plan, design and construct a connection between the firefighter training academy and the city sewer in Socorro and for infrastructure improvements, including sewers, roof replacement, fuel storage tanks, educational facilities, pumping and cooling systems, parking and landscaping, at the firefighter training academy in Socorro in Socorro county.

### **Chapter 42 Section 20 Laws 2007**

Section 20. DEPARTMENT OF GAME AND FISH PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of game and fish that the need exists for the issuance of the bonds, the following amounts are appropriated to the department of game and fish for the following purposes:

1. five hundred thousand dollars (\$500,000) to construct and make improvements to integrate the existing cold water fish hatchery at the Rock Lake warm water fish hatchery in Guadalupe county; and

2. five hundred thousand dollars (\$500,000) to plan, design, construct, improve, renovate, equip and make emergency repairs to department of game and fish facilities statewide.

### **Chapter 42 Section 21 Laws 2007**

Section 21. DEPARTMENT OF HEALTH PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of health that the need exists for the issuance of the bonds, one million dollars (\$1,000,000) is appropriated to the department of health to plan, design, construct, renovate, equip and furnish regional substance abuse facilities in southern New Mexico.

### **Chapter 42 Section 22 Laws 2007**

Section 22. INDIAN AFFAIRS DEPARTMENT PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the Indian affairs department that the need exists for the issuance of the bonds, the following amounts are appropriated to the Indian affairs department for the following purposes:

1. eight hundred fifty thousand dollars (\$850,000) to plan, design, construct, equip and furnish an early childhood development facility for the Mescalero Apache Tribe in Otero county;

2. five hundred thousand dollars (\$500,000) to plan, design, construct and improve the water and wastewater system for the Pueblo of San Felipe in Sandoval county;

3. eight hundred ninety thousand dollars (\$890,000) to plan, design and construct a wellness center at Santa Fe Indian school in Santa Fe in Santa Fe county; and

4. two hundred thousand dollars (\$200,000) to plan, design, construct and repair the drainage and infrastructure system in the Pueblo of Taos in Taos county.

### **Chapter 42 Section 23 Laws 2007**

Section 23. LOCAL GOVERNMENT DIVISION 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. one million two hundred ten thousand dollars (\$1,210,000) to plan, design and construct the Fisher and Smith memorial gymnasium at the Vista Grande community center in Bernalillo county;

2. one million dollars (\$1,000,000) to purchase land for open space adjacent to the Gutierrez Canyon open space area near Cedar Crest in Bernalillo county;

3. three million dollars (\$3,000,000) to acquire land and develop the site for an arena in downtown Albuquerque in Bernalillo county;

4. one million thirty-five thousand dollars (\$1,035,000) to plan, design, construct, equip and furnish a business incubator in east downtown Albuquerque in Bernalillo county;

5. one million dollars (\$1,000,000) to plan, design, construct and equip a kitchen and social service office for senior affairs in Albuquerque in Bernalillo county;

6. one million twenty thousand dollars (\$1,020,000) to plan, design, construct, equip and furnish a special events center in Curry county;

7. eight hundred thousand dollars (\$800,000) to plan, design, construct and equip the Clovis industrial park, including roads, curbs, gutters, drainage, utility infrastructure, wastewater infrastructure, a business accelerator facility and railroad switches, signal, siding and fixtures, in Curry county;

8. six hundred sixty thousand dollars (\$660,000) to plan, design, construct and equip a swimming and recreational facility in Hatch in Dona Ana county;

9. eight hundred thirty thousand dollars (\$830,000) to plan, design, construct and equip the downtown plaza in Las Cruces in Dona Ana county;

10. one million two hundred ten thousand dollars (\$1,210,000) to design a veterans' and military technology museum east of interstate 25 in Las Cruces in Dona Ana county;

11. three million dollars (\$3,000,000) to plan, design, construct and equip a sports complex in Sunland Park in Dona Ana county;

12. six hundred eighty thousand dollars (\$680,000) to acquire land for, plan, design and construct a regional rehabilitation center in Eddy county;
13. seven hundred nineteen thousand two hundred eighty-five dollars (\$719,285) to plan, design, construct, improve, equip and landscape a public safety complex in Artesia in Eddy county;
14. three hundred thousand dollars (\$300,000) to plan, design, construct and renovate the Roy theater in Roy in Harding county;
15. six hundred thousand dollars (\$600,000) to plan, design, construct, equip and furnish a detention center in Hidalgo county;
16. one million one hundred thirty thousand dollars (\$1,130,000) to acquire land for, plan, design, construct and equip a county dialysis center in Gallup in McKinley county;
17. one hundred thousand dollars (\$100,000) to construct, equip and furnish the library in Tularosa in Otero county;
18. two hundred fifty thousand dollars (\$250,000) to purchase equipment and vehicles and to renovate the maintenance yard building in Tularosa in Otero county;
19. two hundred fifty thousand dollars (\$250,000) for affordable housing in Portales in Roosevelt county;
20. eight hundred seventy-nine thousand two hundred eighty-five dollars (\$879,285) to plan, design, construct, renovate, equip and furnish a substance abuse treatment facility, including demolition, in San Juan county;
21. seven hundred thousand dollars (\$700,000) to plan, design, construct and equip a domestic violence shelter and counseling center in San Juan county;
22. one million dollars (\$1,000,000) to plan, design and construct improvements to the railyard park and plaza in Santa Fe in Santa Fe county;
23. five hundred thousand dollars (\$500,000) to acquire rights of way for, plan, design and construct improvements, including a trail, along the Santa Fe river between camino Alire and Frenchy's park in Santa Fe in Santa Fe county;
24. one million three hundred fifty-two thousand seven hundred eighty-five dollars (\$1,352,785) to acquire land for, plan, design, construct, furnish and equip a hospital in Sierra county;
25. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to parks in Socorro in Socorro county;

26. three million dollars (\$3,000,000) for infrastructure improvements at Native American behavioral health services facilities statewide; and

27. eight hundred eighty-nine thousand two hundred eighty-five dollars (\$889,285) to plan, design and construct improvements to the Belen multipurpose park and facilities in Belen in Valencia county.

## **Chapter 42 Section 24 Laws 2007**

### Section 24. DEPARTMENT OF MILITARY AFFAIRS PROJECT--

SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of military affairs that the need exists for the issuance of the bonds, one hundred fifty thousand dollars (\$150,000) is appropriated to the department of military affairs to construct, equip and furnish an aircraft hangar and meeting facility in Farmington in San Juan county.

## **Chapter 42 Section 25 Laws 2007**

Section 25. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the public school capital outlay council that the need exists for the issuance of the bonds, the following amounts are appropriated to the following funds for the following purposes:

1. four million five hundred thousand dollars (\$4,500,000) to the charter school capital outlay fund or, if no such fund exists, to the public school capital outlay fund to assist charter schools in meeting the requirements of Subsection C of Section 22-8B-4.2 NMSA 1978; and

2. twenty million dollars (\$20,000,000) to the public school capital outlay fund for capital outlay projects to be allocated by the public school capital outlay council to carry out the provisions of the Public School Capital Outlay Act, to fund new or expanded school facilities in high-growth areas, address other adequacy issues statewide and including up to two million dollars (\$2,000,000) to plan, design and pay for the additional initial costs of construction of schools using energy-efficient, effective and high-performance sustainable building standards statewide, such as the LEED green building rating system or the build green New Mexico system.

## **Chapter 42 Section 26 Laws 2007**

Section 26. 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. five hundred thousand dollars (\$500,000) to plan, design, construct and improve the sewer system on Coors boulevard in Bernalillo county;
2. seven hundred thousand dollars (\$700,000) to plan, design and construct improvements to roads, including paving, in the north Albuquerque Acres area of Bernalillo county;
3. six hundred ninety-five thousand dollars (\$695,000) to plan, design, construct, equip and furnish an expansion and improvements to the Clovis municipal airport in Clovis in Curry county;
4. seven hundred fifty thousand dollars (\$750,000) to plan, design and construct improvements to roads in Clovis in Curry county;
5. two hundred fifty thousand dollars (\$250,000) to acquire rights of way, plan, design and construct improvements, including drainage, to Corona road in Dona Ana county;
6. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to streets and roads in southern Carlsbad, including Prospect street, Kircher street, Carver street, Davis street and Etter street, in Carlsbad in Eddy county;
7. five hundred thousand dollars (\$500,000) to plan, design and construct street and drainage improvements around the port of entry in Columbus in Luna county;
8. seventeen million dollars (\$17,000,000) for land and right-of-way acquisition and to plan, design, construct, equip and purchase trains for the rail service to Santa Fe;
9. nine hundred thousand dollars (\$900,000) to plan, design and construct the Sandoval county portion of the northwest corridor loop road connecting interstate 40 and interstate 25 via United States highway 550 in Sandoval county;
10. two hundred fifty thousand dollars (\$250,000) to plan, design and construct road improvements, including base course, in the Eldorado area of Santa Fe county;
11. five hundred thousand dollars (\$500,000) to plan, design and construct improvements, including resurfacing, to roads in Union county; and
12. four million dollars (\$4,000,000) to plan, design and construct improvements to the north Belen interchange in Belen in Valencia county.

## **Chapter 42 Section 27 Laws 2007**

Section 27. 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 million six hundred thousand dollars (\$1,600,000) to develop the site for and plan, design, construct, equip and furnish the North American wind research and training center at Mesalands community college in Tucumcari in Quay county;

2. one million three hundred forty thousand dollars (\$1,340,000) to plan, design, construct, expand, equip and furnish the trades and technology building at San Juan college in Farmington in San Juan county; and

3. one million dollars (\$1,000,000) to plan, design, construct and equip a health and science building at Santa Fe community college in Santa Fe in Santa Fe county.

### **Chapter 42 Section 28 Laws 2007**

Section 28. EASTERN NEW MEXICO UNIVERSITY PROJECT-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of eastern New Mexico university that the need exists for the issuance of the bonds, eight hundred thousand dollars (\$800,000) is appropriated to the board of regents of eastern New Mexico university for acquisition, renovation, expansion and infrastructure improvements at facilities at the Ruidoso branch of eastern New Mexico university in Lincoln county.

### **Chapter 42 Section 29 Laws 2007**

Section 29. 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, two million dollars (\$2,000,000) is appropriated to the board of regents of New Mexico highlands university for infrastructure improvements and expansion at New Mexico highlands university in Las Vegas in San Miguel county.

### **Chapter 42 Section 30 Laws 2007**

Section 30. NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of New Mexico institute of mining and technology that the need exists for the issuance of the bonds, two million dollars (\$2,000,000) is appropriated to the board of regents of New Mexico institute of mining and technology to plan, design, construct and equip infrastructure systems, including utilities, water systems, roads and boilers, at New Mexico institute of mining and technology in Socorro in Socorro county.

## **Chapter 42 Section 31 Laws 2007**

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 million seven hundred eighty-nine thousand dollars (\$1,789,000) to plan, design and construct the renovation and expansion of the biology building at the university of New Mexico in Albuquerque in Bernalillo county;
2. seven million dollars (\$7,000,000) to plan, design, construct, equip and furnish the cancer research and treatment center at the university of New Mexico in Albuquerque in Bernalillo county;
3. one million one hundred fifty-three thousand six hundred ninety-seven dollars (\$1,153,697) to plan, design, renovate, repair, construct, furnish and equip Hodgin hall for use as an alumni center at the university of New Mexico in Albuquerque in Bernalillo county;
4. two million dollars (\$2,000,000) to plan, design, construct, renovate and equip the arena at the university of New Mexico in Albuquerque in Bernalillo county;
5. four million dollars (\$4,000,000) to develop the site for and plan, design, construct, equip and furnish a ~~science and mathematics~~ learning center at the university of New Mexico in Albuquerque in Bernalillo county;
6. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a facility for the Tamarind institute at the university of New Mexico in Albuquerque in Bernalillo county; and
7. one million dollars (\$1,000,000) to plan, design, construct and equip sewer, roadway, parking, fire suppression, utility and security system improvements at the Taos branch of the university of New Mexico in Taos county.

## **Chapter 42 Section 32 Laws 2007**

Section 32. NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED 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 school for the blind and visually impaired that the need exists for the issuance of the bonds, five million five hundred thousand dollars (\$5,500,000) is appropriated to the board of regents of the New Mexico school for the blind and visually impaired to complete construction, equip and furnish the early childhood program facility at the New Mexico school for the blind and visually impaired in Albuquerque in Bernalillo county

and for infrastructure, renovations and other improvements at the residential campus in Alamogordo in Otero county.

### **Chapter 42 Section 33 Laws 2007**

Section 33. VOCATIONAL REHABILITATION DIVISION OF THE PUBLIC EDUCATION DEPARTMENT PROJECT--SEVERANCE TAX BONDS.-- Pursuant to the provisions of Section 1 of this act, upon certification by the vocational rehabilitation division of the public education department that the need exists for the issuance of the bonds, two hundred fifty thousand dollars (\$250,000) is appropriated to the vocational rehabilitation division of the public education department to plan, design, construct, equip and furnish an independent living center with sites in the Pueblo of Laguna and the Pueblo of San Felipe to support disabled Native Americans. The center will provide services to individuals with disabilities in the Pueblos of Acoma, Laguna, Isleta, Sandia, Santa Ana, San Felipe, Santo Domingo, Cochiti, Zia and Jemez.

### **Chapter 42 Section 34 Laws 2007**

Section 34. WATER PROJECT FUND PROJECT--SEVERANCE TAX BONDS.-- Pursuant to the provisions of Section 1 of this act, upon certification by the New Mexico finance authority that the need exists for the issuance of the bonds, six million five hundred thousand dollars (\$6,500,000) is appropriated to the water project fund for supporting water projects pursuant to the Water Project Finance Act.

### **Chapter 42 Section 35 Laws 2007**

Section 35. OFFICE ON AFRICAN AMERICAN AFFAIRS PROJECT--GENERAL FUND.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the office on African American affairs for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to purchase and equip vans for the African-American performing arts and exhibit hall at the state fairgrounds in Albuquerque in Bernalillo county.

### **Chapter 42 Section 36 Laws 2007**

Section 36. AGING AND LONG-TERM SERVICES DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the aging and long-term services department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. seven thousand seven hundred dollars (\$7,700) to purchase and install meals equipment for the John Marshall senior center in Bernalillo county;

2. forty thousand dollars (\$40,000) to purchase and equip vehicles for the Isleta senior center in Bernalillo county;

3. one hundred forty thousand dollars (\$140,000) to make improvements, including purchase and installation of equipment, to the North Valley senior center in Bernalillo county;

4. forty-five thousand dollars (\$45,000) to purchase and equip vehicles for senior centers in Albuquerque in Bernalillo county;

5. three thousand five hundred dollars (\$3,500) to purchase and install meals equipment for the Barelvas senior center in Bernalillo county;

6. four hundred sixty-seven thousand dollars (\$467,000) to plan, design, construct, equip and furnish a fitness center at Los Volcanes senior center in Albuquerque in Bernalillo county;

7. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip a senior center in Tijeras in Bernalillo county;

8. seventy-four thousand dollars (\$74,000) to purchase and equip vehicles for the Roswell senior olympics in Chaves county;

9. twenty-two thousand two hundred dollars (\$22,200) to purchase and install meals equipment for the Grants senior center in Cibola county;

10. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and furnish the Pueblo of Laguna senior center in Cibola county;

11. seven thousand three hundred fifty dollars (\$7,350) to purchase and install meals equipment for the Fort Sumner senior center in De Baca county;

12. twenty-two thousand three hundred dollars (\$22,300) to purchase and install meals equipment for senior centers in Dona Ana county;

13. one hundred forty-three thousand nine hundred dollars (\$143,900) to plan, design, construct, expand and equip improvements, including purchase and installation of equipment, to the Mesilla Park community center in Las Cruces in Dona Ana county;

14. two hundred five thousand dollars (\$205,000) to plan, design and construct an addition to the Munson senior center in Las Cruces in Dona Ana county;

15. thirty-three thousand two hundred seventy dollars (\$33,270) to purchase and install meals equipment for senior centers citywide in Las Cruces in Dona Ana county;

16. twenty thousand dollars (\$20,000) to plan, design, renovate and equip the Sunland Park senior center in Sunland Park in Dona Ana county;

17. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, equip and furnish an adult daycare facility in Carlsbad in Eddy county;
18. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and furnish a senior center in Eddy county;
19. forty thousand dollars (\$40,000) to purchase and equip vehicles for senior programs in Santa Clara and Silver City in Grant county;
20. two thousand five hundred dollars (\$2,500) to purchase and install meals equipment for the Harding senior center in Harding county;
21. five thousand dollars (\$5,000) to purchase and install meals equipment for the Hobbs senior center in Lea county;
22. five thousand dollars (\$5,000) to purchase and install meals equipment for the Capitan senior center in Lincoln county;
23. fifty thousand dollars (\$50,000) to plan, design, purchase and install a modular building for the senior center at the Chichiltah chapter of the Navajo Nation in McKinley county;
24. thirty-five thousand dollars (\$35,000) to purchase and equip vehicles for the Gallup senior center in McKinley county;
25. four thousand five hundred dollars (\$4,500) to purchase and install meals equipment for the senior center in the Ramah chapter in McKinley county;
26. eighty thousand dollars (\$80,000) to purchase and equip vehicles for the Pueblo of Zuni senior center in McKinley county;
27. eighty thousand dollars (\$80,000) to purchase and equip vehicles for the Wagon Mound and Mora senior centers in Mora county;
28. two hundred seventy thousand dollars (\$270,000) to purchase and equip vehicles for senior centers nationwide on the Navajo Nation in McKinley and San Juan counties;
29. one hundred twenty-four thousand two hundred twenty-one dollars (\$124,221) to purchase and install meals equipment for senior centers nationwide on the Navajo Nation in McKinley and San Juan counties;
30. forty-five thousand dollars (\$45,000) to purchase and equip vehicles for the Mescalero senior center in Otero county;

31. fifteen thousand dollars (\$15,000) to purchase and install meals equipment for the Alamogordo senior center in Otero county;

32. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish the Tierra Amarilla senior center in Rio Arriba county;

33. thirty thousand dollars (\$30,000) to purchase and install exercise equipment, weights and mats at the Espanola senior center in Espanola in Rio Arriba county;

34. twenty-five thousand dollars (\$25,000) to purchase and install meals equipment for the Espanola senior center in Rio Arriba county;

35. six thousand dollars (\$6,000) to purchase and install a public address system and speakers at the Espanola senior center in Espanola in Rio Arriba county;

36. forty thousand dollars (\$40,000) to plan, design, equip and renovate the kitchen at the Medanales senior center in Rio Arriba county;

37. seven hundred thousand dollars (\$700,000) to plan, design and construct an adult daycare facility at the Pueblo of Santa Clara in Rio Arriba county;

38. twenty thousand dollars (\$20,000) to purchase and equip a van for transporting senior citizens in Floyd in Roosevelt county;

39. twenty thousand dollars (\$20,000) to purchase and install equipment and meals equipment at Los Abuelitos senior center in Portales in Roosevelt county;

40. forty thousand one hundred fifty dollars (\$40,150) to purchase and install meals equipment for the Aztec, Blanco, Bonnie Dallas and Lower Valley senior centers in San Juan county;

41. twenty-five thousand dollars (\$25,000) to purchase and equip vehicles for the Bonnie Dallas and Lower Valley senior centers in San Juan county;

42. thirty-two thousand dollars (\$32,000) to purchase and equip a vehicle for the senior center in the Lake Valley chapter of the Navajo Nation in San Juan county;

43. eight thousand dollars (\$8,000) to purchase and install meals equipment for senior centers citywide in Las Vegas in San Miguel county;

44. twenty-five thousand dollars (\$25,000) to purchase and install meals equipment for the Meadowlark senior center in Sandoval county;

45. fifty thousand dollars (\$50,000) to purchase and equip vehicles for senior centers in Sandoval county;

46. eight thousand one hundred fourteen dollars (\$8,114) to purchase and install meals equipment for the Cuba senior center in Sandoval county;

47. thirty thousand dollars (\$30,000) to purchase and equip vehicles for the Pueblo of Santo Domingo senior center in Sandoval county;

48. sixty-four thousand two hundred eighty-five dollars (\$64,285) to plan, design, construct and equip a senior center for the Torreon-Star Lake chapter of the Navajo Nation in Sandoval county;

49. fifty thousand dollars (\$50,000) to make improvements, including purchase and installation of furnishings and equipment, to the Pasatiempo senior center in Santa Fe county;

50. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, equip and furnish, including improvements to the parking lot and landscaping, the Edgewood senior center in Santa Fe county;

51. fifty thousand dollars (\$50,000) to construct, equip and furnish an addition and renovations, including exterior site improvements, to the senior center in Edgewood in Santa Fe county;

52. forty thousand dollars (\$40,000) for renovations and improvements to the senior center, including road and parking lot improvements, at the Pueblo of Nambe in Santa Fe county;

53. ninety-eight thousand dollars (\$98,000) to purchase and equip vehicles for the Pueblo of Nambe senior center in Santa Fe county;

54. fifty thousand dollars (\$50,000) to purchase and equip vehicles for the Pueblo of Pojoaque senior center in Santa Fe county;

55. thirty thousand dollars (\$30,000) to purchase and equip vehicles for the Pueblo of San Ildefonso senior center in Santa Fe county;

56. two hundred thousand dollars (\$200,000) to purchase and equip vehicles for senior centers citywide in Santa Fe in Santa Fe county;

57. fifty thousand dollars (\$50,000) to purchase and equip vehicles for senior centers in Socorro county;

58. nine thousand eight hundred dollars (\$9,800) to purchase and install equipment for senior centers in Socorro county;

59. one hundred sixty thousand dollars (\$160,000) to purchase and install equipment for area agencies on aging statewide;

60. fifteen thousand dollars (\$15,000) to purchase and install equipment for the Questa and Chamisal senior centers in Taos county;

61. forty thousand dollars (\$40,000) to purchase and equip vehicles for the Ancianos senior center in Taos county;

62. eight thousand six hundred four dollars (\$8,604) to purchase and install meals equipment for the Pueblo of Taos senior center in Taos county;

63. sixty thousand nine hundred twenty dollars (\$60,920) to purchase and install meals equipment for the Mountainair and Estancia senior centers in Torrance county;

64. one hundred thousand dollars (\$100,000) to equip, furnish, renovate and expand, including the parking area and landscaping, the senior center in Mountainair in Torrance county;

65. forty-five thousand dollars (\$45,000) to purchase and equip vehicles for the Clayton senior center in Union county;

66. three thousand five hundred dollars (\$3,500) to purchase and install meals equipment for the Clayton senior center in Union county;

67. twenty-five thousand dollars (\$25,000) to purchase and equip a van for transporting seniors in Des Moines in Union county;

68. fifty-eight thousand five hundred sixty-eight dollars (\$58,568) to purchase and equip vehicles for the Belen and Los Lunas senior centers in Valencia county; and

69. twenty-eight thousand dollars (\$28,000) to make improvements for building-code compliance, including purchase and installation of equipment, to the Meadow Lake senior center in Valencia county.

## **Chapter 42 Section 37 Laws 2007**

Section 37. STATE AUDITOR PROJECT--GENERAL FUND.--Forty thousand dollars (\$40,000) is appropriated from the general fund to the state auditor for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to purchase furnishings and information technology, including related equipment and furniture, for the state auditor's office in Santa Fe in Santa Fe county.

## **Chapter 42 Section 38 Laws 2007**

Section 38. CAPITAL PROGRAM FUND PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the capital program fund for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. one million dollars (\$1,000,000) to purchase analytical equipment for DWI, autopsy and environmental testing and to purchase communicable disease outbreak detection equipment for the state scientific laboratory in Albuquerque in Bernalillo county;

2. fifty thousand dollars (\$50,000) to plan, design and construct renovations, including improvements to the exhibit areas, to the New Mexico mining museum in Grants in Cibola county;

3. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish an office facility for the border authority in Santa Teresa in Dona Ana county;

4. one hundred thousand dollars (\$100,000) for strategic planning and to design, construct and renovate structures at Fort Bayard medical center for an economic development center in Fort Bayard in Grant county;

5. one hundred thousand dollars (\$100,000) to plan, design and construct renovations to the Fort Bayard theater in Grant county;

6. five hundred thousand dollars (\$500,000) to plan, design, construct, equip and furnish a crime laboratory in Hobbs in Lea county;

7. fifty thousand dollars (\$50,000) to purchase equipment for a mechanic's garage for the New Mexico state police district 6 office in Gallup in McKinley county;

8. one hundred fifty thousand dollars (\$150,000) to replace remittance transports and for security upgrades at the Lujan building in Santa Fe in Santa Fe county;

9. thirty thousand dollars (\$30,000) to renovate, repair and equip the energy, minerals and natural resources department forestry building in Socorro in Socorro county;

10. one million dollars (\$1,000,000) for security upgrades and the purchase and installation of electronic monitoring equipment at state-owned corrections facilities statewide, including the facility in Springer in Colfax county;

11. one hundred thousand dollars (\$100,000) to upgrade voice data wiring of human services department buildings statewide;

12. one million dollars (\$1,000,000) for emergency repairs to state buildings statewide;

13. two million dollars (\$2,000,000) to plan, design and construct improvements to state buildings statewide, including funding for contingencies;

14. seven hundred thousand dollars (\$700,000) for patient health and safety improvements at department of health facilities statewide; and

15. two million dollars (\$2,000,000) to plan, design, construct, renovate and equip a substance abuse treatment center in Los Lunas in Valencia county.

### **Chapter 42 Section 39 Laws 2007**

Section 39. CHARTER SCHOOLS STIMULUS FUND PROJECT-- GENERAL FUND.--Two hundred fifty thousand dollars (\$250,000) is appropriated from the general fund to the charter schools stimulus fund for expenditure in fiscal years 2007 and subsequent fiscal years to provide for initial costs of renovating and remodeling existing buildings and structures statewide; provided that no administrative costs may be paid from this amount. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

### **Chapter 42 Section 40 Laws 2007**

Section 40. CORRECTIONS DEPARTMENT PROJECT--GENERAL FUND.--Twenty-five thousand dollars (\$25,000) is appropriated from the general fund to the corrections department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to purchase library equipment for the education bureau of the corrections department in Albuquerque in Bernalillo county.

### **Chapter 42 Section 41 Laws 2007**

Section 41. CULTURAL AFFAIRS DEPARTMENT PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the cultural affairs department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. twenty-five thousand dollars (\$25,000) to purchase equipment for a bilingual, multicultural and intergenerational art and theater organization in Albuquerque in Bernalillo county;

2. four hundred twenty-seven thousand five hundred dollars (\$427,500) for a fresco painting at the Torreon building at the national Hispanic cultural center in Albuquerque in Bernalillo county;

3. four hundred twenty-five thousand dollars (\$425,000) to construct, equip and furnish the Pete V. Domenici education building at the national Hispanic cultural center in Albuquerque in Bernalillo county;

4. three hundred ninety-nine thousand two hundred eighty-five dollars (\$399,285) to plan, design and construct educational facilities, including classrooms, lunchrooms

and an auditorium, at the New Mexico museum of natural history and science in Albuquerque in Bernalillo county;

5. eighty thousand dollars (\$80,000) to plan, design, construct, equip and install improvements, including septic systems, stalls, landscaping, exhibits and demonstration spaces, to the sheep and goat barn and the beef barn at the New Mexico farm and ranch heritage museum in Las Cruces in Dona Ana county;

6. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct a retractable cover for the courtyard at the New Mexico farm and ranch heritage museum in Las Cruces in Dona Ana county;

7. one hundred forty-one thousand nine hundred dollars (\$141,900) to plan, design, construct and equip a greenhouse at the New Mexico farm and ranch heritage museum in Las Cruces in Dona Ana county;

8. eighty thousand dollars (\$80,000) to purchase and install kiosks and information technology, including related equipment and furniture, at the New Mexico farm and ranch heritage museum in Las Cruces in Dona Ana county;

9. one hundred thousand dollars (\$100,000) to plan, design and construct an exhibit and education building and expansion and upgrades to the theater and facilities at the international space hall of fame at the New Mexico museum of space history in Alamogordo in Otero county;

10. seven hundred forty-five thousand dollars (\$745,000) to construct a rehearsal hall on land donated by the Santa Fe opera in Santa Fe county;

11. forty-five thousand dollars (\$45,000) to purchase, install, equip and furnish the offices of the Santa Fe international folk art market, including information technology, in Santa Fe county;

12. seventy thousand dollars (\$70,000) to purchase a collection of original Paul Horgan drawings for the Fray Angelico Chavez history library, a division of the palace of the governors historical museum in Santa Fe in Santa Fe county;

13. fifty thousand dollars (\$50,000) to plan, design, construct and renovate the Girard wing of the museum of international folk art in Santa Fe in Santa Fe county;

14. three million dollars (\$3,000,000) to purchase and conserve a collection of traditional northern New Mexico art for the New Mexico history museum in Santa Fe in Santa Fe county;

15. fifty thousand dollars (\$50,000) to renovate, including site, facility and infrastructure improvements, the Bataan memorial campus museums, including the

Santa Fe children's museum, Bataan memorial military museum, Santa Fe armory for the arts theatre and center for contemporary arts, in Santa Fe in Santa Fe county;

16. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, equip and furnish improvements to and expansion of the Santa Fe children's museum in Santa Fe in Santa Fe county;

17. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to El Camino Real international heritage center in Socorro in Socorro county; and

18. twenty-five thousand dollars (\$25,000) to plan, design and construct repairs and renovations to historic structures in Taos county.

### **Chapter 42 Section 42 Laws 2007**

Section 42. LIBRARY DIVISION OF THE CULTURAL AFFAIRS DEPARTMENT PROJECT--GENERAL FUND.--Twenty-five thousand dollars (\$25,000) is appropriated from the general fund to the library division of the cultural affairs department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for interior and exterior improvements to the New Mexico state library in Santa Fe in Santa Fe county.

### **Chapter 42 Section 43 Laws 2007**

Section 43. CUMBRES AND TOLTEC SCENIC RAILROAD COMMISSION PROJECT--GENERAL FUND.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the Cumbres and Toltec scenic railroad commission for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to repair existing passenger rail cars and to construct new passenger rail cars for the Cumbres and Toltec scenic railroad in Rio Arriba county.

### **Chapter 42 Section 44 Laws 2007**

Section 44. DISTRICT ATTORNEY OF THE SEVENTH JUDICIAL DISTRICT PROJECT--GENERAL FUND.--Forty thousand dollars (\$40,000) is appropriated from the general fund to the district attorney of the seventh judicial district for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to purchase vehicles for the seventh judicial district attorney's office in Socorro in Socorro county.

### **Chapter 42 Section 45 Laws 2007**

Section 45. DISTRICT ATTORNEY OF THE NINTH JUDICIAL DISTRICT PROJECT--GENERAL FUND.--One hundred eighty thousand dollars (\$180,000) is

appropriated from the general fund to the district attorney of the ninth judicial district for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to plan, design, renovate and equip the district attorney's office in the ninth judicial district in Portales in Roosevelt county.

### **Chapter 42 Section 46 Laws 2007**

Section 46. FIRST JUDICIAL DISTRICT COURT PROJECT-- GENERAL FUND.-  
-Fifty thousand dollars (\$50,000) is appropriated from the general fund to the first judicial district court for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to purchase, install and equip an electronic document management system in the first judicial district court in Santa Fe in Santa Fe county.

### **Chapter 42 Section 47 Laws 2007**

Section 47. THIRD JUDICIAL DISTRICT COURT PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the third judicial district court for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. sixty-five thousand dollars (\$65,000) to furnish and equip courtrooms, chambers, the training facility and the pro se clinic, including information technology, in the third judicial district in Las Cruces in Dona Ana county;

2. ninety thousand dollars (\$90,000) for security improvements, including internal and external security cameras, at the third judicial district courthouse in Las Cruces in Dona Ana county; and

3. seventy thousand dollars (\$70,000) for assessment and architectural planning for the third judicial district court in Las Cruces in Dona Ana county.

### **Chapter 42 Section 48 Laws 2007**

Section 48. FIFTH JUDICIAL DISTRICT COURT PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the fifth judicial district court for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. twenty-five thousand dollars (\$25,000) to purchase equipment, furnishings and information technology for the fifth judicial district court in Carlsbad in Eddy county; and

2. thirty thousand dollars (\$30,000) to purchase equipment, furnishings and information technology for the fifth judicial district court in Lovington in Lea county.

### **Chapter 42 Section 49 Laws 2007**

Section 49. SEVENTH JUDICIAL DISTRICT COURT PROJECT-- GENERAL FUND.--Forty-five thousand dollars (\$45,000) is appropriated from the general fund to the seventh judicial district court for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to purchase vehicles for the seventh judicial district court in Socorro in Socorro county.

### **Chapter 42 Section 50 Laws 2007**

Section 50. NINTH JUDICIAL DISTRICT COURT PROJECT-- GENERAL FUND.--Twenty thousand dollars (\$20,000) is appropriated from the general fund to the ninth judicial district court for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to purchase and install equipment for sexual assault nurse examiners for the ninth judicial district in Curry and Roosevelt counties.

### **Chapter 42 Section 51 Laws 2007**

Section 51. ELEVENTH JUDICIAL DISTRICT COURT PROJECT-- GENERAL FUND.--Thirty thousand dollars (\$30,000) is appropriated from the general fund to the eleventh judicial district court for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to purchase and install interactive, audio and visual equipment, including information technology, for the eleventh judicial district in San Juan and McKinley counties.

### **Chapter 42 Section 52 Laws 2007**

Section 52. THIRTEENTH JUDICIAL DISTRICT COURT PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the thirteenth judicial district court for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment and furniture, for the thirteenth judicial district court in Cibola county;

2. twenty-five thousand dollars (\$25,000) to purchase and install information technology, including related equipment and furniture, for the thirteenth judicial district court in Sandoval county; and

3. one million one hundred fifty thousand dollars (\$1,150,000) to equip and furnish the courthouse for the thirteenth judicial district in Los Lunas in Valencia county.

### **Chapter 42 Section 53 Laws 2007**

Section 53. ECONOMIC DEVELOPMENT DEPARTMENT PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the

economic development department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. three hundred eighty-five thousand dollars (\$385,000) to acquire land for, plan, design and construct a meat processing plant, including site improvements, in McKinley county for the Ramah chapter; and
2. one million five hundred thousand dollars (\$1,500,000) to plan, design and construct the redevelopment of central business districts as part of the mainstreet program statewide.

## **Chapter 42 Section 54 Laws 2007**

Section 54. ECONOMIC DEVELOPMENT REVOLVING FUND PROJECT-- GENERAL FUND.--Two million dollars (\$2,000,000) is appropriated from the general fund to the economic development revolving fund for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for capital projects pursuant to the Statewide Economic Development Finance Act to stimulate economic development statewide.

## **Chapter 42 Section 55 Laws 2007**

Section 55. PUBLIC EDUCATION DEPARTMENT PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the public education department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. two hundred ninety-five thousand dollars (\$295,000) to plan, design, purchase, construct and equip a facility to house the media arts collaborative charter school, the media arts collaborative distance learning center, community cable channel 27 and an authorized Apple training center in Bernalillo county;
2. two hundred ten thousand dollars (\$210,000) to plan, design and construct improvements to the weight room, including purchasing and installing equipment, at Eldorado high school in the Albuquerque public school district in Bernalillo county;
3. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, at Governor Bent elementary school in the Albuquerque public school district in Bernalillo county;
4. two hundred thousand dollars (\$200,000) to purchase and install iPods and educational technology, including related equipment and furniture, for Grant middle school in the Albuquerque public school district in Bernalillo county;
5. thirty thousand dollars (\$30,000) to purchase and install an audio console for KANW educational radio station in Albuquerque in Bernalillo county;

6. two hundred thousand dollars (\$200,000) to plan, design, construct and renovate a building for the Montessori of the Rio Grande charter school in the Albuquerque public school district in Bernalillo county;
7. fifty thousand dollars (\$50,000) to purchase and install playground equipment, furniture and educational technology, including related equipment and furniture, at Reginald Chavez elementary school in the Albuquerque public school district in Bernalillo county;
8. fifteen thousand dollars (\$15,000) to purchase books and furniture for the library at Washington middle school in the Albuquerque public school district in Bernalillo county;
9. one hundred forty thousand dollars (\$140,000) to purchase, install and equip a portable building for the Twenty-First Century charter school in the Albuquerque public school district in Bernalillo county;
10. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at A. Montoya elementary school in the Albuquerque public school district in Bernalillo county;
11. fifty thousand dollars (\$50,000) to improve the heating, ventilation and air conditioning system at A. Montoya elementary school in the Albuquerque public school district in Bernalillo county;
12. fifty thousand dollars (\$50,000) to plan, design, construct, equip, furnish and landscape a new track for use by A. Montoya elementary school and Roosevelt middle school in the Albuquerque public school district in Bernalillo county;
13. forty-five thousand dollars (\$45,000) to purchase and install educational technology, including related equipment and furniture, at Acoma elementary school in the Albuquerque public school district in Bernalillo county;
14. ten thousand dollars (\$10,000) to plan, design, construct and install landscaping and drainage improvements at the playground and media center areas of Adobe Acres elementary school in the Albuquerque public school district in Bernalillo county;
15. eight thousand three hundred dollars (\$8,300) to purchase physical education equipment for Adobe Acres elementary school in the Albuquerque public school district in Bernalillo county;
16. fifty-five thousand dollars (\$55,000) to purchase and install educational technology, including related equipment and furniture, at Alameda elementary school in the Albuquerque public school district in Bernalillo county;

17. one hundred fifty-five thousand dollars (\$155,000) to plan, design and construct improvements to athletic fields, tracks and drainage at Alameda elementary school in the Albuquerque public school district in Bernalillo county;

18. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, for Alamosa elementary school in the Albuquerque public school district in Bernalillo county;

19. fifteen thousand dollars (\$15,000) for improvements and equipment for the basketball facility at Albuquerque high school in the Albuquerque public school district in Bernalillo county;

20. two hundred four thousand seven hundred dollars (\$204,700) to plan, design and construct drainage and track improvements at Albuquerque high school in the Albuquerque public school district in Bernalillo county;

21. one hundred seventy-five thousand dollars (\$175,000) to purchase and install educational technology, including related equipment and furniture, for Albuquerque high school in the Albuquerque public school district in Bernalillo county;

22. fifteen thousand dollars (\$15,000) for equipment and improvements for the wrestling program at Albuquerque high school in the Albuquerque public school district in Bernalillo county;

23. twenty-five thousand dollars (\$25,000) to improve, equip and furnish baseball and athletic fields in the Albuquerque public school district in Bernalillo county;

24. one hundred twenty-five thousand dollars (\$125,000) to purchase and install information technology, including related equipment and furniture, for the critical incident management system in the Albuquerque public school district in Bernalillo county;

25. one hundred fifty-three thousand six hundred ninety-seven dollars (\$153,697) to purchase and install educational technology, including related equipment and furniture, at schools in house district 13 in the Albuquerque public school district in Bernalillo county;

26. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and improve lecture halls and to purchase and install information technology, including related equipment and furniture, for South Valley academy in the Albuquerque public school district in Bernalillo county;

27. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, for Alvarado elementary school in the Albuquerque public school district in Bernalillo county;

28. one hundred twenty-five thousand dollars (\$125,000) to purchase and install educational technology, including related equipment and furniture, and to purchase library books for Alvarado elementary school in the Albuquerque public school district in Bernalillo county;

29. one hundred twenty thousand dollars (\$120,000) to purchase and install educational technology, including related equipment and furniture, at Amy Biehl charter high school in the Albuquerque public school district in Bernalillo county;

30. ninety thousand dollars (\$90,000) to furnish and equip the cafeteria and study hall at Amy Biehl charter high school in the Albuquerque public school district in Bernalillo county;

31. fifty thousand dollars (\$50,000) to landscape the grounds at Amy Biehl charter high school in the Albuquerque public school district in Bernalillo county;

32. seventy thousand dollars (\$70,000) to remove asbestos and construct, renovate, equip and furnish a building for the Amy Biehl charter high school in the Albuquerque public school district in Bernalillo county;

33. fifteen thousand dollars (\$15,000) to purchase, install and upgrade the security system, including fencing, security bars and door locks, at Amy Biehl charter school in the Albuquerque public school district in Bernalillo county;

34. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at Apache elementary school in the Albuquerque public school district in Bernalillo county;

35. twenty-five thousand dollars (\$25,000) to purchase library books for Apache elementary school in the Albuquerque public school district in Bernalillo county;

36. one hundred eighty thousand dollars (\$180,000) to plan, design, construct, equip, furnish and landscape an outdoor classroom and plaza at Apache elementary school in the Albuquerque public school district in Bernalillo county;

37. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment and furniture and library books, for Armijo elementary school in the Albuquerque public school district in Bernalillo county;

38. twenty-five thousand dollars (\$25,000) to purchase non-textbook books for the library at Arroyo del Oso elementary school in the Albuquerque public school district in Bernalillo county;

39. one hundred thirty thousand dollars (\$130,000) to purchase and install educational technology, including related equipment and furniture, at Bandelier elementary school in the Albuquerque public school district in Bernalillo county;

40. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Barcelona elementary school in the Albuquerque public school district in Bernalillo county;

41. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment and furnishings, and library books for Barcelona elementary school in the Albuquerque public school district in Bernalillo county;

42. one hundred thousand dollars (\$100,000) to plan, design and construct improvements, including purchase of equipment, to the playground at Bel-Air elementary school in the Albuquerque public school district in Bernalillo county;

43. one hundred ten thousand dollars (\$110,000) to plan, design, construct and equip a student pick-up and drop-off lane and off-street handicapped parking at Bellehaven elementary school in the Albuquerque public school district in Bernalillo county;

44. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish renovations to the library, including shelving and storage areas, at Bellehaven elementary school in the Albuquerque public school district in Bernalillo county;

45. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, for Carlos Rey elementary school in the Albuquerque public school district in Bernalillo county;

46. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment and furniture, and to purchase library books for Carlos Rey elementary school in the Albuquerque public school district in Bernalillo county;

47. twenty-five thousand dollars (\$25,000) to purchase, install and make upgrades to the telephone system at Carlos Rey elementary school in the Albuquerque public school district in Bernalillo county;

48. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, to assist students and staff with meeting state and district testing standards at Chamiza elementary school in the Albuquerque public school district in Bernalillo county;

49. fifty thousand dollars (\$50,000) to purchase and install a security system at Chamiza elementary school in the Albuquerque public school district in Bernalillo county;

50. twenty thousand dollars (\$20,000) to purchase and install educational technology, including related equipment and furniture, for Chaparral elementary school in the Albuquerque public school district in Bernalillo county;

51. ninety thousand dollars (\$90,000) to purchase and install educational technology, including related equipment and furniture, at Chelwood elementary school in the Albuquerque public school district in Bernalillo county;

52. ninety-five thousand dollars (\$95,000) to plan, design, construct, equip and furnish a facility for Christine Duncan community school in the Albuquerque public school district in Bernalillo county;

53. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment, furniture, mobile laboratories and a communication system, at Cibola high school in the Albuquerque public school district in Bernalillo county;

54. three hundred thousand dollars (\$300,000) to renovate, equip and furnish the lunch area, including an elevator and improvements to comply with the Americans with Disabilities Act of 1990, at Cibola high school in the Albuquerque public school district in Bernalillo county;

55. fifty thousand dollars (\$50,000) to purchase and install security cameras and related infrastructure at Cibola high school in the Albuquerque public school district in Bernalillo county;

56. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip tennis courts at Cibola high school in the Albuquerque public school district in Bernalillo county;

57. twenty-nine thousand two hundred eighty-five dollars (\$29,285) to purchase non-textbook books for the library at Cleveland middle school in the Albuquerque public school district in Bernalillo county;

58. eighty-five thousand dollars (\$85,000) to purchase and install educational technology, including related equipment and furniture and wiring, at Collet Park elementary school in the Albuquerque public school district in Bernalillo county;

59. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, improve and equip the administrative area at Comanche elementary school in the Albuquerque public school district in Bernalillo county;

60. twenty-five thousand dollars (\$25,000) to purchase non-textbook books for the library at Comanche elementary school in the Albuquerque public school district in Bernalillo county;

61. one hundred thirty thousand dollars (\$130,000) to survey, plan, construct, equip, furnish and install upgrades to the playground at Comanche elementary school in the Albuquerque public school district in Bernalillo county;

62. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and install elevators for the new Coronado school in the Albuquerque public school district in Bernalillo county;

63. twenty-five thousand dollars (\$25,000) to purchase non-textbook books for the library at Del Norte high school in the Albuquerque public school district in Bernalillo county;

64. one hundred fifty-three thousand six hundred ninety-seven dollars (\$153,697) to purchase and install educational technology, including related equipment, furniture and networking, at Del Norte high school in the Albuquerque public school district in Bernalillo county;

65. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip improvements, including the fields, bleachers, goals, concession and restroom areas, at Del Norte high school in the Albuquerque public school district in Bernalillo county;

66. seventy-five thousand dollars (\$75,000) to purchase and install educational technology, including related equipment and furniture, for a multimedia classroom at Dennis Chavez elementary school in the Albuquerque public school district in Bernalillo county;

67. one hundred twenty-five thousand dollars (\$125,000) to purchase and install educational technology, including related equipment and furniture, for Desert Ridge middle school in the Albuquerque public school district in Bernalillo county;

68. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, for Douglas MacArthur elementary school in the Albuquerque public school district in Bernalillo county;

69. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, and to purchase library books for Douglas MacArthur elementary school in the Albuquerque public school district in Bernalillo county;

70. seventy-five thousand dollars (\$75,000) to purchase and install educational technology, including related equipment and furniture, at Duranes elementary school in the Albuquerque public school district in Bernalillo county;

71. fifty thousand dollars (\$50,000) to purchase and install furnishings, including fixtures, desks, chairs, improvements for portables, storage sheds, safes and cabinets,

for East Mountain high school in the Albuquerque public school district in Bernalillo county;

72. one hundred fifty thousand dollars (\$150,000) to furnish and equip the science department at East Mountain high school in the Albuquerque public school district in Bernalillo county;

73. ninety-five thousand dollars (\$95,000) to renovate, expand and equip east San Jose elementary school, including classrooms, an administrative wing, a cafeteria and a freezer, in the Albuquerque public school district in Bernalillo county;

74. seventy-five thousand dollars (\$75,000) to purchase and install educational technology, including related equipment and furniture, at Edmund G. Ross elementary school in the Albuquerque public school district in Bernalillo county;

75. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, for Edward Gonzales elementary school in the Albuquerque public school district in Bernalillo county;

76. thirty thousand dollars (\$30,000) to purchase library books and purchase and install educational technology, including related furniture and equipment, for Edward Gonzales elementary school in the Albuquerque public school district in Bernalillo county;

77. fifteen thousand dollars (\$15,000) to purchase and install educational technology, including related equipment and furniture, for Eisenhower middle school in the Albuquerque public school district in Bernalillo county;

78. one hundred forty-two thousand dollars (\$142,000) to purchase and install interior and exterior security systems at Eisenhower middle school in the Albuquerque public school district in Bernalillo county;

79. one hundred forty thousand dollars (\$140,000) to purchase and install educational technology, including related equipment and furniture, in the Eldorado cluster of the Albuquerque public school district in Bernalillo county;

80. two hundred fifty thousand dollars (\$250,000) to improve libraries in the Eldorado cluster in the Albuquerque public school district in Bernalillo county;

81. seventy-five thousand dollars (\$75,000) to purchase and install educational technology, including related equipment and furniture, at Eldorado high school in the Albuquerque public school district in Bernalillo county;

82. two hundred thousand dollars (\$200,000) to construct a gateway entry to Eldorado high school, including landscaping, in the Albuquerque public school district in Bernalillo county;

83. one hundred thousand dollars (\$100,000) to plan, design and construct a drop-off and pick-up area for the students at Emerson elementary school in the Albuquerque public school district in Bernalillo county;

84. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Ernie Pyle middle school in the Albuquerque public school district in Bernalillo county;

85. forty thousand dollars (\$40,000) to purchase and install educational technology, including related equipment and furnishings, and to purchase library books for Ernie Pyle middle school in the Albuquerque public school district in Bernalillo county;

86. sixty thousand dollars (\$60,000) to purchase and install educational technology, including related equipment and furniture, at Eubank elementary school in the Albuquerque public school district in Bernalillo county;

87. fifty thousand dollars (\$50,000) to furnish and equip the playground and library at Eugene Field elementary school in the Albuquerque public school district in Bernalillo county;

88. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish classrooms for the east side campus of the Family school in the Albuquerque public school district in Bernalillo county;

89. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, for Garfield middle school in the Albuquerque public school district in Bernalillo county;

90. seventy-five thousand dollars (\$75,000) to purchase library books and to purchase and install educational technology, including related equipment and furniture, for a reading program at Garfield middle school in the Albuquerque public school district in Bernalillo county;

91. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, at Georgia O'Keeffe elementary school in the Albuquerque public school district in Bernalillo county;

92. twenty-five thousand dollars (\$25,000) to purchase non-textbook books for the library at Governor Bent elementary school in the Albuquerque public school district in Bernalillo county;

93. one hundred sixty-five thousand dollars (\$165,000) to plan, design, construct and equip a kindergarten addition at Governor Bent elementary school in the Albuquerque public school district in Bernalillo county;

94. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip improvements to the library at Governor Bent elementary school in the Albuquerque public school district in Bernalillo county;

95. sixty thousand dollars (\$60,000) to purchase and install a portable building at Grant middle school in the Albuquerque public school district in Bernalillo county;

96. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, at Griegos elementary school in the Albuquerque public school district in Bernalillo county;

97. fifty thousand dollars (\$50,000) to purchase library books and educational technology, including related equipment and furniture, for Griegos elementary school in the Albuquerque public school district in Bernalillo county;

98. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Harrison middle school in the Albuquerque public school district in Bernalillo county;

99. forty thousand dollars (\$40,000) to purchase and install educational technology, including related equipment and furniture, and to purchase library books for Harrison middle school in the Albuquerque public school district in Bernalillo county;

100. fifty thousand dollars (\$50,000) to purchase, install and refurbish bathroom fixtures at Hawthorne elementary school in the Albuquerque public school district in Bernalillo county;

101. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at Hawthorne elementary school in the Albuquerque public school district in Bernalillo county;

102. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and furnish the health and fitness center, including outdoor recreational and sports areas, at Hayes middle school in the Albuquerque public school district in Bernalillo county;

103. fifty thousand dollars (\$50,000) to furnish, equip and purchase books for and purchase and install information technology, including related equipment and furniture, at the library at Hayes middle school in the Albuquerque public school district in Bernalillo county;

104. twenty-five thousand dollars (\$25,000) for television and film production and broadcast equipment for schools in the Highland cluster in the Albuquerque public school district in Bernalillo county;

105. two hundred thousand dollars (\$200,000) to plan, design, construct and equip a basketball court at Highland high school in the Albuquerque public school district in Bernalillo county;

106. seventy thousand dollars (\$70,000) to purchase and install educational technology, including related equipment and furniture, for Highland high school in the Albuquerque public school district in Bernalillo county;

107. forty-five thousand dollars (\$45,000) to purchase and install educational technology, including related equipment and furniture, and to purchase furniture for the library at Highland high school in the Albuquerque public school district in Bernalillo county;

108. one hundred sixty thousand dollars (\$160,000) to plan, design, construct and equip infrastructure, facility and security improvements, including exterior improvements and purchase and installation of security cameras, at Highland high school in the Albuquerque public school district in Bernalillo county;

109. eight thousand dollars (\$8,000) to purchase library books for Highland high school in the Albuquerque public school district in Bernalillo county;

110. eighty thousand dollars (\$80,000) to plan, design and construct improvements to coaches' offices and locker rooms at Highland high school in the Albuquerque public school district in Bernalillo county;

111. forty thousand dollars (\$40,000) to paint the exterior buildings at Highland high school in the Albuquerque public school district in Bernalillo county;

112. thirty thousand dollars (\$30,000) to plan, design, construct and equip on-site street vacation infrastructure at Highland high school in the Albuquerque public school district in Bernalillo county;

113. one hundred twenty thousand three hundred dollars (\$120,300) to purchase and install educational technology for the deaf and hard-of-hearing program, including related equipment and furniture, at Hodgin elementary school in the Albuquerque public school district in Bernalillo county;

114. one hundred thirty-five thousand dollars (\$135,000) to purchase and install educational technology, including related equipment and furniture, at Hoover middle school in the Albuquerque public school district in Bernalillo county;

115. twenty-five thousand dollars (\$25,000) to purchase books and equipment for the library at Hoover middle school in the Albuquerque public school district in Bernalillo county;

116. sixty thousand dollars (\$60,000) to purchase and install educational technology, including related equipment and furniture, at Hubert H. Humphrey elementary school in the Albuquerque public school district in Bernalillo county;

117. sixty thousand dollars (\$60,000) to plan, design, construct, furnish and equip renovations, including site improvements and expansions, at Inez elementary school in the Albuquerque public school district in Bernalillo county;

118. twenty-five thousand dollars (\$25,000) to purchase and install blinds at Inez elementary school in the Albuquerque public school district in Bernalillo county;

119. one hundred thousand dollars (\$100,000) to purchase library books and equipment for the library at Inez elementary school in the Albuquerque public school district in Bernalillo county;

120. one hundred fifty thousand dollars (\$150,000) to purchase and install educational technology, including related equipment and furniture, at Jackson middle school in the Albuquerque public school district in Bernalillo county;

121. one hundred fifty thousand dollars (\$150,000) to purchase and install educational technology, including related infrastructure, equipment and furniture, to assist students and staff with meeting state and district testing standards at James Monroe middle school in the Albuquerque public school district in Bernalillo county;

122. forty-five thousand dollars (\$45,000) to purchase and install a security system at James Monroe middle school in the Albuquerque public school district in Bernalillo county;

123. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Jefferson middle school in the Albuquerque public school district in Bernalillo county;

124. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to the field at Jefferson middle school in the Albuquerque public school district in Bernalillo county;

125. two thousand dollars (\$2,000) to plan, design, construct and equip multipurpose music rehearsal and recording studios for Jefferson middle school in the Albuquerque public school district in Bernalillo county;

126. forty thousand dollars (\$40,000) to construct and upgrade the track at Jefferson middle school in the Albuquerque public school district in Bernalillo county;

127. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, for Jimmy E. Carter middle school in the Albuquerque public school district in Bernalillo county;

128. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, for John Adams middle school in the Albuquerque public school district in Bernalillo county;

129. eighty thousand dollars (\$80,000) to plan, design and construct site improvements, including paving, storm drainage and landscaping, to John Adams middle school in the Albuquerque public school district in Bernalillo county;

130. twenty-five thousand dollars (\$25,000) to purchase and install security cameras for John Adams middle school in the Albuquerque public school district in Bernalillo county;

131. two hundred thousand dollars (\$200,000) to plan, design and construct a playground, including purchase and installation of equipment and turf, at John Baker elementary school in the Albuquerque public school district in Bernalillo county;

132. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Kennedy middle school in the Albuquerque public school district in Bernalillo county;

133. seventy-five thousand dollars (\$75,000) to plan, design, construct, furnish and equip interior and exterior improvements, including landscaping, to the gymnasium at Kennedy middle school in the Albuquerque public school district in Bernalillo county;

134. twenty thousand dollars (\$20,000) to purchase and install educational technology, including related equipment and furniture, at Kirtland elementary school in the Albuquerque public school district in Bernalillo county;

135. seventy-five thousand dollars (\$75,000) to plan, design, purchase and install playground equipment at Kirtland elementary school in the Albuquerque public school district in Bernalillo county;

136. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment and furniture, and to purchase library books for Kit Carson elementary school in the Albuquerque public school district in Bernalillo county;

137. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, in La Cueva cluster schools in the Albuquerque public school district in Bernalillo county;

138. eighty-five thousand dollars (\$85,000) to purchase and install educational technology, including related equipment and furniture, at La Cueva high school in the Albuquerque public school district in Bernalillo county;

139. sixty-five thousand dollars (\$65,000) to purchase and install equipment for the mathematics and science laboratories at La Cueva high school in the Albuquerque public school district in Bernalillo county;

140. seventy-four thousand dollars (\$74,000) for electrical upgrades at La Luz elementary school in the Albuquerque public school district in Bernalillo county;

141. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at La Mesa elementary school in the Albuquerque public school district in Bernalillo county;

142. one hundred thousand dollars (\$100,000) to expand, furnish, equip, purchase books and purchase and install information technology, including related equipment and furniture, for the school library of La Mesa elementary school in the Albuquerque public school district in Bernalillo county;

143. three hundred fifty thousand dollars (\$350,000) to purchase, renovate, plan, design, construct, equip and furnish facilities, including purchase and installation of portables, for La Promesa early learning center in the Albuquerque public school district in Bernalillo county;

144. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, for Lavaland elementary school in the Albuquerque public school district in Bernalillo county;

145. fifty thousand dollars (\$50,000) to purchase and install playground equipment at Lew Wallace elementary school in the Albuquerque public school district in Bernalillo county;

146. twenty thousand dollars (\$20,000) to purchase and install educational technology, including related equipment and furniture, at Longfellow elementary school in the Albuquerque public school district in Bernalillo county;

147. five thousand dollars (\$5,000) to equip the library, including purchasing library books, technology and related equipment and furniture, at Longfellow elementary school in the Albuquerque public school district in Bernalillo county;

148. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment and furnishings, and to purchase library books for Los Padillas elementary school in the Albuquerque public school district in Bernalillo county;

149. one hundred fifty thousand dollars (\$150,000) to purchase and install educational technology, including related equipment and furniture, at Los Ranchos elementary school in the Albuquerque public school district in Bernalillo county;

150. thirty thousand dollars (\$30,000) to improve the heating, ventilation and air conditioning system at Lowell elementary school in the Albuquerque public school district in Bernalillo county;

151. one hundred fifty thousand dollars (\$150,000) to plan, design and construct restrooms and lobby facilities at the Barbara Anderson gymnasium at Lyndon B. Johnson middle school in the Albuquerque public school district in Bernalillo county;

152. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related infrastructure, equipment and furniture, for Lyndon B. Johnson middle school in the Albuquerque public school district in Bernalillo county;

153. seventy-five thousand dollars (\$75,000) to purchase and install video surveillance equipment at Lyndon B. Johnson middle school in the Albuquerque public school district in Bernalillo county;

154. twenty-five thousand dollars (\$25,000) to purchase non-textbook books for the library at Madison middle school in the Albuquerque public school district in Bernalillo county;

155. sixty thousand dollars (\$60,000) to design, furnish, equip, upgrade and install telephone system infrastructure and security cameras in Madison middle school in the Albuquerque public school district in Bernalillo county;

156. sixty thousand dollars (\$60,000) to purchase library books for the Manzano and Highland school clusters in the Albuquerque public school district in Bernalillo county;

157. twenty thousand dollars (\$20,000) for television and film production and broadcast equipment for schools in the Manzano cluster in the Albuquerque public school district in Bernalillo county;

158. fifty thousand dollars (\$50,000) to plan, design and improve the baseball field, including dugouts and stands, at Manzano high school in the Albuquerque public school district in Bernalillo county;

159. one hundred fifty thousand dollars (\$150,000) to purchase and install educational technology, including related equipment and furniture, at Manzano high school in the Albuquerque public school district in Bernalillo county;

160. four hundred twenty-five thousand dollars (\$425,000) to purchase and install equipment and plan, design and improve the football field, including landscaping, at Manzano high school in the Albuquerque public school district in Bernalillo county;

161. one hundred twenty-five thousand dollars (\$125,000) to purchase library books and related equipment for Manzano high school in the Albuquerque public school district in Bernalillo county;

162. ninety thousand dollars (\$90,000) to purchase and install educational technology, including related equipment and furniture, at Manzano Mesa elementary school in the Albuquerque public school district in Bernalillo county;

163. one hundred eighty thousand dollars (\$180,000) to purchase and install educational technology, including related equipment and furniture, at Marie M. Hughes elementary school in the Albuquerque public school district in Bernalillo county;

164. sixty thousand dollars (\$60,000) to purchase and install a security system at Marie M. Hughes elementary school in the Albuquerque public school district in Bernalillo county;

165. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Mark Twain elementary school in the Albuquerque public school district in Bernalillo county;

166. three hundred thousand dollars (\$300,000) to purchase and install grass and refurbish the track at Mark Twain elementary school in the Albuquerque public school district in Bernalillo county;

167. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at Matheson Park elementary school in the Albuquerque public school district in Bernalillo county;

168. seventy thousand dollars (\$70,000) to purchase and install educational technology, including related equipment and furniture, for the library at Matheson Park elementary school in the Albuquerque public school district in Bernalillo county;

169. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip restrooms, including improvements to comply with the Americans with Disabilities Act of 1990, at McCollum elementary school in the Albuquerque public school district in Bernalillo county;

170. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, at McKinley middle school in the Albuquerque public school district in Bernalillo county;

171. thirty thousand dollars (\$30,000) to plan, design, renovate, equip and purchase a building for a media arts collaborative charter school in the Albuquerque public school district in Bernalillo county;

172. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, for Mission Avenue elementary school in the Albuquerque public school district in Bernalillo county;

173. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, and to purchase library books for Mission Avenue elementary school in the Albuquerque public school district in Bernalillo county;

174. fifty thousand dollars (\$50,000) to purchase and install playground equipment and for site improvements, including landscaping, at Mission Avenue elementary school in the Albuquerque public school district in Bernalillo county;

175. eighty-five thousand dollars (\$85,000) to purchase and install educational technology, including related equipment and furniture, at Mitchell elementary school in the Albuquerque public school district in Bernalillo county;

176. seventy-five thousand dollars (\$75,000) to purchase books and equipment for the library at Mitchell elementary school in the Albuquerque public school district in Bernalillo county;

177. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Monte Vista elementary school in the Albuquerque public school district in Bernalillo county;

178. thirty thousand dollars (\$30,000) to purchase books, furniture and equipment for the library at Monte Vista elementary school in the Albuquerque public school district in Bernalillo county;

179. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Montezuma elementary school in the Albuquerque public school district in Bernalillo county;

180. fifty-five thousand dollars (\$55,000) to design, construct and equip a reading garden, including a shade structure, at Montezuma elementary school in the Albuquerque public school district in Bernalillo county;

181. ten thousand dollars (\$10,000) to purchase physical education equipment for Mountain View elementary school in the Albuquerque public school district in Bernalillo county;

182. fifty thousand dollars (\$50,000) to purchase and install playground equipment at Mountain View elementary school in the Albuquerque public school district in Bernalillo county;

183. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, at the Native American community academy in the Albuquerque public school district in Bernalillo county;

184. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at Navajo elementary school in the Albuquerque public school district in Bernalillo county;

185. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment and furniture, and to purchase library books for Navajo elementary school in the Albuquerque public school district in Bernalillo county;

186. one hundred thousand dollars (\$100,000) to remodel a classroom into a science laboratory at New Futures school in the Albuquerque public school district in Bernalillo county;

187. fifty thousand dollars (\$50,000) to purchase and install portable buildings for the North Albuquerque cooperative community charter school in the Albuquerque public school district in Bernalillo county;

188. one hundred thousand dollars (\$100,000) to purchase and install laboratory equipment and educational technology, including related equipment and furniture, for the mathematics and science laboratory at North Star elementary school in the Albuquerque public school district in Bernalillo county;

189. fifty thousand dollars (\$50,000) to plan, design and install a security system at North Star elementary school in the Albuquerque public school district in Bernalillo county;

190. forty thousand dollars (\$40,000) to plan, design and construct facility improvements, including furnishing and equipping a science laboratory and exterior improvements, to the Armijo building for Nuestros Valores charter school in the Albuquerque public school district in Bernalillo county;

191. fifty thousand dollars (\$50,000) to acquire land for, plan, design and construct a facility at Nuestros Valores charter school in the Albuquerque public school district in Bernalillo county;

192. twenty thousand dollars (\$20,000) to renovate existing facilities, including purchasing and installing a security system, smoke detectors, a fire alarm and communication system, at Nuestros Valores charter school in the Albuquerque public school district in Bernalillo county;

193. forty-two thousand dollars (\$42,000) to plan, design and construct outdoor classroom improvements, including purchase and installation of shaded area and

seating, at Nuestros Valores charter school in the Albuquerque public school district in Bernalillo county;

194. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, for Nuestros Valores charter school in the Albuquerque public school district in Bernalillo county;

195. twenty-five thousand dollars (\$25,000) to purchase library books and related equipment and furniture for Onate elementary school in the Albuquerque public school district in Bernalillo county;

196. twenty-five thousand dollars (\$25,000) to purchase non-textbook books for the library at Osuna elementary school in the Albuquerque public school district in Bernalillo county;

197. two hundred ninety-five thousand dollars (\$295,000) to plan, design, construct, equip, furnish and renovate classrooms at Osuna elementary school in the Albuquerque public school district in Bernalillo county;

198. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, for Painted Sky elementary school in the Albuquerque public school district in Bernalillo county;

199. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment and furniture, and to purchase library books for Pajarito elementary school in the Albuquerque public school district in Bernalillo county;

200. one hundred five thousand dollars (\$105,000) to purchase and install educational technology, including related equipment and furniture, for Petroglyph elementary school in the Albuquerque public school district in Bernalillo county;

201. seventy-five thousand dollars (\$75,000) to purchase and install a security system at Petroglyph elementary school in the Albuquerque public school district in Bernalillo county;

202. forty thousand dollars (\$40,000) to purchase and install educational technology, including related equipment and furniture, at Polk middle school in the Albuquerque public school district in Bernalillo county;

203. forty thousand dollars (\$40,000) to purchase library books and purchase and install educational technology, including related equipment and furniture, for Polk middle school in the Albuquerque public school district in Bernalillo county;

204. eighty thousand dollars (\$80,000) to plan, design, purchase, renovate and equip a facility for the public academy for the performing arts in the Albuquerque public school district in Bernalillo county;

205. sixty-five thousand dollars (\$65,000) to purchase and install educational technology, including related equipment and furniture, and an intercom and clock system in the public academy for the performing arts in the Albuquerque public school district in Bernalillo county;

206. one hundred thousand dollars (\$100,000) to purchase musical equipment and to purchase and install educational technology, including related equipment and furniture, for the public academy for the performing arts in the Albuquerque public school district in Bernalillo county;

207. twenty thousand dollars (\$20,000) to purchase and install educational technology, including related equipment and furniture, at Reginald Chavez elementary school in the Albuquerque public school district in Bernalillo county;

208. one hundred nineteen thousand dollars (\$119,000) to purchase and install video conferencing equipment for schools in the Rio Grande cluster in the Albuquerque public school district in Bernalillo county, with the appropriation divided equally among the schools;

209. fifty-one thousand dollars (\$51,000) to purchase band equipment and instruments for Rio Grande high school in the Albuquerque public school district in Bernalillo county;

210. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Rio Grande high school in the Albuquerque public school district in Bernalillo county;

211. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, and to purchase library books at Rio Grande high school in the Albuquerque public school district in Bernalillo county;

212. fifty thousand dollars (\$50,000) to purchase, install, renovate and construct lockers and improvements in the student commons area at Rio Grande high school in the Albuquerque public school district in Bernalillo county;

213. fifty thousand dollars (\$50,000) to purchase and install equipment for the weight room at Rio Grande high school in the Albuquerque public school district in Bernalillo county;

214. fifteen thousand dollars (\$15,000) for improvements and equipment for the wrestling program at Rio Grande high school in the Albuquerque public school district in Bernalillo county;

215. twenty-five thousand dollars (\$25,000) to purchase and install equipment and educational technology, including related equipment and furniture, at Robert F. Kennedy charter school in the Albuquerque public school district in Bernalillo county;

216. seventy-five thousand dollars (\$75,000) to purchase and install portable buildings at Robert F. Kennedy charter school in the Albuquerque public school district in Bernalillo county;

217. seventy-seven thousand dollars (\$77,000) to purchase and install educational technology, including related equipment and furniture, at Roosevelt middle school in the Albuquerque public school district in Bernalillo county;

218. fifty thousand dollars (\$50,000) to purchase library books and textbooks to support a math program at Roosevelt middle school in the Albuquerque public school district in Bernalillo county;

219. one hundred thousand dollars (\$100,000) to plan, design, construct and equip improvements to the playground at San Antonito elementary school in the Albuquerque public school district in Bernalillo county;

220. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Sandia Base elementary school in the Albuquerque public school district in Bernalillo county;

221. twenty-five thousand dollars (\$25,000) to purchase non-textbook books for the library at Sandia high school in the Albuquerque public school district in Bernalillo county;

222. twenty-five thousand dollars (\$25,000) to plan, design, construct, engineer, equip and furnish a building for the behavioral intervention program at Sandia high school in the Albuquerque public school district in Bernalillo county;

223. fifty thousand dollars (\$50,000) to purchase and install football training equipment and make field improvements for Sandia high school in the Albuquerque public school district in Bernalillo county;

224. four hundred ten thousand dollars (\$410,000) to plan, design and construct improvements to the lecture hall at Sandia high school in the Albuquerque public school district in Bernalillo county;

225. twenty-five thousand dollars (\$25,000) to purchase and install equipment and furnishings for the library at Sandia high school in the Albuquerque public school district in Bernalillo county;

226. fifty-five thousand dollars (\$55,000) to purchase and install educational technology, including related furnishings and multimedia equipment, at Sandia high school in the Albuquerque public school district in Bernalillo county;

227. fifty thousand dollars (\$50,000) to plan, design, construct, engineer, equip and furnish renovations to the science rooms at Sandia high school in the Albuquerque public school district in Bernalillo county;

228. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Seven Bar elementary school in the Albuquerque public school district in Bernalillo county;

229. fifty thousand dollars (\$50,000) to purchase and install a security system at Seven Bar elementary school in the Albuquerque public school district in Bernalillo county;

230. one hundred twenty-five thousand dollars (\$125,000) to purchase and install educational technology, including related equipment and furniture, at Sierra Vista elementary school in the Albuquerque public school district in Bernalillo county;

231. fifty thousand dollars (\$50,000) to purchase and install a security system at Sierra Vista elementary school in the Albuquerque public school district in Bernalillo county;

232. one hundred thirty-five thousand dollars (\$135,000) to purchase and install a telephone system, including infrastructure, at Sombra del Monte elementary school in the Albuquerque public school district in Bernalillo county;

233. five hundred eighty-eight thousand dollars (\$588,000) to plan, design, construct, equip and purchase land for a lecture hall, including classroom and bathroom facilities, at South Valley Academy charter school in the Albuquerque public school district in Bernalillo county;

234. thirty thousand dollars (\$30,000) to purchase and install a project documentation center, including digital cameras and related equipment, for the Southwest Primary learning center in the Albuquerque public school district in Bernalillo county;

235. forty-five thousand dollars (\$45,000) to purchase, install and equip a mobile laptop cart for the Southwest Primary learning center in the Albuquerque public school district in Bernalillo county;

236. ten thousand dollars (\$10,000) to purchase and install a mobile video console for the Southwest Primary learning center in the Albuquerque public school district in Bernalillo county;

237. seventy-five thousand dollars (\$75,000) to purchase and install a portable building for the Southwest Primary learning center in the Albuquerque public school district in Bernalillo county;

238. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, for the smart laboratory at Southwest Primary learning center in the Albuquerque public school district in Bernalillo county;

239. fifty thousand dollars (\$50,000) to purchase, install and equip an interactive whiteboard for the Southwest Primary learning center in the Albuquerque public school district in Bernalillo county;

240. forty-five thousand dollars (\$45,000) to purchase furniture, including staging, mobile storage cabinets, display cases and mobile science centers, at Southwest Secondary learning center in the Albuquerque public school district in Bernalillo county;

241. two hundred sixty-five thousand dollars (\$265,000) to purchase and install educational technology, including related equipment and furniture, for the smart laboratory at Southwest Secondary learning center in the Albuquerque public school district in Bernalillo county;

242. ninety-four thousand dollars (\$94,000) to purchase, install and equip an aviation ground school laboratory for Southwest Secondary learning center in the Albuquerque public school district in Bernalillo county;

243. forty thousand dollars (\$40,000) to purchase educational technology, including video iPods, for Southwest Secondary learning center in the Albuquerque public school district in Bernalillo county;

244. two hundred ninety thousand dollars (\$290,000) to purchase and install educational technology, including related equipment, furniture and network upgrades, at Southwest Secondary learning center in the Albuquerque public school district in Bernalillo county;

245. thirty thousand dollars (\$30,000) to purchase and install fitness equipment for Southwest Secondary learning center in the Albuquerque public school district in Bernalillo county;

246. eighteen thousand dollars (\$18,000) to purchase and install a mobile video console, including related furniture and equipment, for Southwest Secondary learning center in the Albuquerque public school district in Bernalillo county;

247. forty-five thousand dollars (\$45,000) to purchase and install a Halo vision presentation center for Southwest Secondary learning center in the Albuquerque public school district in Bernalillo county;

248. fifty thousand dollars (\$50,000) to equip the wellness center, including purchasing information technology and related health equipment and books, for

Southwest Secondary learning center in the Albuquerque public school district in Bernalillo county;

249. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, for Susie R. Marmon elementary school in the Albuquerque public school district in Bernalillo county;

250. three hundred thousand dollars (\$300,000) to design and construct a library and media center at Susie R. Marmon elementary school in the Albuquerque public school district in Bernalillo county;

251. seventy thousand dollars (\$70,000) to purchase, furnish and install educational technology, including related equipment and furniture, for S.Y. Jackson elementary school in the Albuquerque public school district in Bernalillo county;

252. twenty-five thousand dollars (\$25,000) to purchase library materials, including books, at S.Y. Jackson elementary school in the Albuquerque public school district in Bernalillo county;

253. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Taft middle school in the Albuquerque public school district in Bernalillo county;

254. fifty thousand dollars (\$50,000) to purchase and install security cameras and related equipment for Taft middle school in the Albuquerque public school district in Bernalillo county;

255. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment, supporting infrastructure and furniture, at Taylor middle school in the Albuquerque public school district in Bernalillo county;

256. fifty thousand dollars (\$50,000) to purchase and install security systems and monitors at Taylor middle school in the Albuquerque public school district in Bernalillo county;

257. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Tomasita elementary school in the Albuquerque public school district in Bernalillo county;

258. fifty thousand dollars (\$50,000) to purchase, renovate and equip the performing arts center, including communication devices, orchestra equipment and a sound system, at Valley high school in the Albuquerque public school district in Bernalillo county;

259. twenty-five thousand dollars (\$25,000) to purchase and install security cameras in the gymnasium at Valley high school in the Albuquerque public school district in Bernalillo county;

260. fifty thousand dollars (\$50,000) to improve and equip softball fields at Valley high school in the Albuquerque public school district in Bernalillo county;

261. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct a baseball field at Van Buren middle school in the Albuquerque public school district in Bernalillo county;

262. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furnishings, at Van Buren middle school in the Albuquerque public school district in Bernalillo county;

263. fifty thousand dollars (\$50,000) to purchase and install educational technology and audiovisual equipment, including related equipment and furniture, at Ventana Ranch elementary school in the Albuquerque public school district in Bernalillo county;

264. seventy-five thousand dollars (\$75,000) to purchase and install a security system at Ventana Ranch elementary school in the Albuquerque public school district in Bernalillo county;

265. forty thousand dollars (\$40,000) to purchase and install educational technology, including related equipment and furnishings, at Washington middle school in the Albuquerque public school district in Bernalillo county;

266. fifty thousand dollars (\$50,000) to equip the West Mesa high school athletic department in the Albuquerque public school district in Bernalillo county;

267. thirty thousand dollars (\$30,000) to plan, design, construct, renovate and equip the baseball field at West Mesa high school in the Albuquerque public school district in Bernalillo county;

268. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at West Mesa high school in the Albuquerque public school district in Bernalillo county;

269. one hundred thousand dollars (\$100,000) to purchase and install physical education equipment at West Mesa high school in the Albuquerque public school district in Bernalillo county;

270. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Wherry elementary school in the Albuquerque public school district in Bernalillo county;

271. fifty thousand dollars (\$50,000) to plan, design and install landscaping at Whittier elementary school in the Albuquerque public school district in Bernalillo county;

272. fifteen thousand dollars (\$15,000) to plan, design and construct a roof walkway at Whittier elementary school in the Albuquerque public school district in Bernalillo county;

273. fifty-nine thousand dollars (\$59,000) to plan, design, construct and equip improvements to the cafeteria and kitchen at Wilson middle school in the Albuquerque public school district in Bernalillo county;

274. one hundred thousand dollars (\$100,000) to purchase and install educational technology, including related equipment and furniture, at Wilson middle school in the Albuquerque public school district in Bernalillo county;

275. forty thousand dollars (\$40,000) to plan, design and construct electrical improvements, including related equipment, at Wilson middle school in the Albuquerque public school district in Bernalillo county;

276. twenty-four thousand dollars (\$24,000) to plan, design and install a new floor for the gymnasium at Wilson middle school in the Albuquerque public school district in Bernalillo county;

277. sixty-five thousand dollars (\$65,000) to plan, design, construct and equip a culinary arts center for the Youth Build Trade and Technology high school in the Albuquerque public school district in Bernalillo county;

278. one hundred seventy thousand dollars (\$170,000) to purchase and install educational technology, including related equipment and furniture, at Zia elementary school in the Albuquerque public school district in Bernalillo county;

279. sixty thousand dollars (\$60,000) to purchase and install playground equipment at Zia elementary school in the Albuquerque public school district in Bernalillo county;

280. twenty-five thousand dollars (\$25,000) to purchase non-textbook books for the library at Zuni elementary school in the Albuquerque public school district in Bernalillo county;

281. thirty thousand dollars (\$30,000) to purchase, install, plan, design and construct a parking lot and playground areas, including landscaping, for the Quemado main campus in the Quemado independent school district in Catron county;

282. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish a computer laboratory, including educational technology, for the junior and senior high school in the Reserve independent school district in Catron county;

283. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a fitness center in the Dexter consolidated school district in Chaves county;

284. three hundred thousand dollars (\$300,000) to plan, design, construct and equip a field house in the Hagerman municipal school district in Chaves county;

285. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a school-based health clinic in the Hagerman municipal school district in Chaves county;

286. two hundred thousand dollars (\$200,000) to construct and equip, including lighting, an athletic field in the Lake Arthur municipal school district in Chaves county;

287. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at Berrendo elementary school in the Roswell independent school district in Chaves county;

288. fifty thousand dollars (\$50,000) to purchase and install playground and physical education equipment at Berrendo elementary school in the Roswell independent school district in Chaves county;

289. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, at Berrendo middle school in the Roswell independent school district in Chaves county;

290. twenty-five thousand dollars (\$25,000) to purchase equipment for the football field at Berrendo middle school in the Roswell independent school district in Chaves county;

291. seventy-five thousand dollars (\$75,000) to purchase and install mats, safety and exercise equipment and related equipment for the gymnasium at Berrendo middle school in the Roswell independent school district in Chaves county;

292. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at Del Norte elementary school in the Roswell independent school district in Chaves county;

293. fifty thousand dollars (\$50,000) to purchase and install physical education and technology equipment for Del Norte elementary school in the Roswell independent school district in Chaves county;

294. one hundred thousand dollars (\$100,000) to plan, design and renovate Del Norte elementary school in the Roswell independent school district in Chaves county;

295. fifty thousand dollars (\$50,000) to purchase and install an audiovisual system, including related equipment, at Goddard high school in the Roswell independent school district in Chaves county;

296. twenty thousand dollars (\$20,000) to purchase and equip a trailer for the band at Goddard high school in the Roswell independent school district in Chaves county;

297. twenty thousand dollars (\$20,000) to purchase a baseball tractor and other equipment for the Goddard high school baseball program in the Roswell independent school district in Chaves county;

298. one hundred ninety thousand dollars (\$190,000) to improve the baseball field and facilities, including purchasing and installing a scoreboard, at Goddard high school in the Roswell independent school district in Chaves county;

299. ten thousand dollars (\$10,000) to purchase and install equipment and technology for the baseball program at Goddard high school in the Roswell independent school district in Chaves county;

300. twenty-five thousand dollars (\$25,000) to purchase and equip a trailer for the baseball program at Goddard high school in the Roswell independent school district in Chaves county;

301. twenty-five thousand dollars (\$25,000) to equip the boys' basketball team and to renovate and equip the locker room for use as a media center at Goddard high school in the Roswell independent school district in Chaves county;

302. seventy-five thousand dollars (\$75,000) to renovate and equip, including purchase and installation of media equipment, the boys' basketball locker room at Goddard high school in the Roswell independent school district in Chaves county;

303. twenty-five thousand dollars (\$25,000) to purchase equipment and a trailer for the future farmers of America program at Goddard high school in the Roswell independent school district in Chaves county;

304. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, renovate and equip the football locker room at Goddard high school in the Roswell independent school district in Chaves county;

305. four hundred thousand dollars (\$400,000) to plan, design, construct and equip an indoor artificial turf facility at Goddard high school in the Roswell independent school district in Chaves county;

306. seventy-five thousand dollars (\$75,000) to plan, design, construct, renovate and equip the life skills classroom at Goddard high school in the Roswell independent school district in Chaves county;

307. twenty-five thousand dollars (\$25,000) to purchase information technology and equipment for the track program at Goddard high school in the Roswell independent school district in Chaves county;

308. twenty-five thousand dollars (\$25,000) to purchase and equip a tractor for Goddard high school in the Roswell independent school district in Chaves county;

309. twenty-five thousand dollars (\$25,000) to plan, design, construct and renovate the wrestling room at Goddard high school in the Roswell independent school district in Chaves county;

310. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements at the football field at Mesa middle school in the Roswell independent school district in Chaves county;

311. twenty thousand dollars (\$20,000) to purchase and install a scoreboard in the gymnasium at Mesa middle school in the Roswell independent school district in Chaves county;

312. forty-five thousand dollars (\$45,000) to purchase and install educational technology, including related equipment and furniture, at Military Heights elementary school in the Roswell independent school district in Chaves county;

313. thirty thousand dollars (\$30,000) to purchase and install educational technology, including related equipment and furniture, for the profoundly gifted program at Military Heights elementary school in the Roswell independent school district in Chaves county;

314. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related equipment and furniture, at Mountain View middle school in the Roswell independent school district in Chaves county;

315. thirty thousand dollars (\$30,000) to purchase equipment and appliances for the football team at Roswell high school in the Roswell independent school district in Chaves county;

316. forty thousand dollars (\$40,000) to plan, design, purchase, construct, equip, improve and renovate the field house locker room at Roswell high school in the Roswell independent school district in Chaves county;

317. two hundred forty thousand dollars (\$240,000) to plan, design, construct and equip a building for the football weight room at Roswell high school in the Roswell independent school district in Chaves county;

318. twenty-five thousand dollars (\$25,000) to purchase equipment for the girls' basketball program at Roswell high school in the Roswell independent school district in Chaves county;

319. ninety-five thousand dollars (\$95,000) to plan, design and construct improvements, including lighting, sod and water fountains, to the multipurpose athletic field at Roswell high school in the Roswell independent school district in Chaves county;

320. four hundred seventy thousand dollars (\$470,000) for interior and exterior improvements to the wool bowl, including turf and purchasing equipment, in the Roswell independent school district in Chaves county;

321. one hundred thousand dollars (\$100,000) to plan, design and construct repairs, including asbestos abatement, at Sidney Gutierrez middle school in the Roswell independent school district in Chaves county;

322. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, at Sierra middle school in the Roswell independent school district in Chaves county;

323. thirty thousand dollars (\$30,000) to purchase a vehicle for the Springer municipal school district in Colfax county;

324. one hundred thirty thousand dollars (\$130,000) to purchase and install security fencing and doors and make related improvements at Clovis high school in the Clovis municipal school district in Curry county;

325. ten thousand dollars (\$10,000) to design, purchase and install doors for the agricultural building for the Melrose public school district in Curry county;

326. two hundred thousand dollars (\$200,000) to plan, design and construct an air conditioning system for a gymnasium in the Melrose public school district in Curry county;

327. fifty thousand dollars (\$50,000) to repair roofs and replace air conditioners in the Texico municipal school district in Curry county;

328. twenty-one thousand five hundred dollars (\$21,500) to plan, design and construct additions, including purchase and installation of related equipment, to the greenhouse for the Fort Sumner municipal school district in De Baca county;

329. three hundred thousand dollars (\$300,000) to plan, design and construct a field house at Chaparral high school in the Gadsden independent school district in Dona Ana county;

330. five hundred five thousand dollars (\$505,000) to plan, design and construct improvements to playgrounds, including purchase and installation of equipment, in the Gadsden independent school district in Dona Ana county;

331. two hundred thousand dollars (\$200,000) to construct classrooms at Gadsden middle school in the Gadsden independent school district in Dona Ana county for use by New Mexico integrated services, the New Mexico community foundation and the department of health;

332. seventy thousand dollars (\$70,000) to purchase, install and equip a health center, including purchasing dental equipment, for Gadsden middle school in the Gadsden independent school district in Dona Ana county;

333. seventeen thousand dollars (\$17,000) to equip the mariachi band at Santa Teresa high school in the Gadsden independent school district in Dona Ana county;

334. three thousand dollars (\$3,000) to equip the band at Santa Teresa middle school in the Gadsden independent school district in Dona Ana county;

335. fifty thousand dollars (\$50,000) to purchase and install playground equipment and to construct a playground area at Dona Ana elementary school in the Las Cruces public school district in Dona Ana county;

336. one hundred thousand dollars (\$100,000) to design and remodel restrooms in East Picacho elementary school in the Las Cruces public school district in Dona Ana county;

337. forty-one thousand nine hundred dollars (\$41,900) to plan, design, construct and equip an addition at Fairacres elementary school in the Las Cruces public school district in Dona Ana county;

338. twenty thousand dollars (\$20,000) to plan, design, construct and equip a nurse's area, including improvements to comply with the Americans with Disabilities Act of 1990, at Fairacres elementary school in the Las Cruces public school district in Dona Ana county;

339. seventy-five thousand dollars (\$75,000) to purchase and install educational technology, including related equipment and furniture, at Highland elementary school in the Las Cruces public school district in Dona Ana county;

340. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip and renovate the field house, including demolition, at Las Cruces high school in the Las Cruces public school district in Dona Ana county;

341. one hundred fifty-five thousand nine hundred dollars (\$155,900) to plan, design, equip and renovate the auxiliary gymnasium for Las Cruces high school in the Las Cruces public school district in Dona Ana county;

342. forty-five thousand dollars (\$45,000) to purchase and install lockers and exercise equipment in the Las Cruces public school district in Dona Ana county;

343. three hundred seventy-five thousand dollars (\$375,000) to purchase land for, plan, design, construct and equip schools and multipurpose facilities, including a girls' softball practice field, for the Las Cruces public school district in Dona Ana county;

344. one hundred thousand one hundred dollars (\$100,100) to plan, design, construct, purchase and install playground equipment at MacArthur elementary school in the Las Cruces public school district in Dona Ana county;

345. thirty thousand dollars (\$30,000) to purchase equipment for the Mayfield high school orchestra in the Las Cruces public school district in Dona Ana county;

346. forty-one thousand nine hundred dollars (\$41,900) to plan, design, construct, equip and furnish a new entrance for Mesilla elementary school in the Las Cruces public school district in Dona Ana county;

347. fifty thousand dollars (\$50,000) to plan, design and construct, including purchasing and installing, field lighting at the Onate high school football field in the Las Cruces public school district in Dona Ana county;

348. forty-one thousand nine hundred dollars (\$41,900) to plan, design and renovate restrooms at Zia middle school in the Las Cruces public school district in Dona Ana county;

349. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct and equip restrooms and concession stands at the Mack Chase athletic complex in the Artesia public school district in Eddy county;

350. seventy-five thousand dollars (\$75,000) to purchase and install playground equipment at Hermosa elementary school in the Artesia public school district in Eddy county;

351. twenty-five thousand dollars (\$25,000) to purchase and install playground equipment for Yeso elementary school in the Artesia public school district in Eddy county;

352. one hundred fifty thousand dollars (\$150,000) to purchase and install heating, ventilation and air conditioning units at Carlsbad high school in the Carlsbad municipal school district in Eddy county;

353. seventy-five thousand dollars (\$75,000) to replace lockers in the Carlsbad municipal school district in Eddy county;

354. two hundred thousand dollars (\$200,000) to plan, design, construct and equip a maintenance facility at Loving high school in the Loving municipal school district in Eddy county;

355. fifty thousand dollars (\$50,000) to purchase and equip vehicles for the Cobre consolidated school district in Grant county;

356. one hundred thirty-five thousand dollars (\$135,000) to purchase an activity bus for the Santa Rosa consolidated school district in Guadalupe county;

357. sixty thousand dollars (\$60,000) to purchase an activities bus for the Vaughn municipal school district in Guadalupe county;

358. twenty-five thousand dollars (\$25,000) to purchase and equip a vehicle for the Mosquero municipal school district in Harding county;

359. twenty-five thousand dollars (\$25,000) to purchase and equip a school activity bus for the Roy municipal school district in Harding county;

360. fifty thousand dollars (\$50,000) to remodel, equip and furnish the Eunice high school science laboratory in the Eunice public school district in Lea county;

361. four hundred seventy-five thousand dollars (\$475,000) to renovate Hobbs high school to comply with the Americans with Disabilities Act of 1990 in the Hobbs municipal school district in Lea county;

362. two hundred forty-six thousand nine hundred eighty-five dollars (\$246,985) to replace the roof at Jal elementary school in the Jal public school district in Lea county;

363. ninety-two thousand three hundred dollars (\$92,300) to replace the roof at Jal high school in the Jal public school district in Lea county;

364. ten thousand dollars (\$10,000) to purchase and install a digitized printer for use by the southeast New Mexico educational resource consortium in the Jal public school district in Lea county;

365. seventy-five thousand dollars (\$75,000) to purchase and install bleachers at the Lovington high school football stadium in the Lovington municipal school district in Lea county;

366. one hundred thousand dollars (\$100,000) to plan, design, purchase and install interior and exterior security systems, including related equipment, to Lovington high and junior high schools in the Lovington municipal school district in Lea county;

367. one hundred twenty-five thousand dollars (\$125,000) to purchase and install equipment and educational technology, including related equipment and furniture, in the Lovington municipal school district in Lea county;

368. sixty thousand dollars (\$60,000) to plan, design, purchase and install a playground at Lovington preschool in the Lovington municipal school district in Lea county;

369. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct improvements to sports facilities, including purchase and installation of bleachers, at Taylor middle school in the Lovington municipal school district in Lea county;

370. forty thousand dollars (\$40,000) to purchase and install a portable computer unit for the Tatum municipal school district in Lea county;

371. ten thousand dollars (\$10,000) to purchase graphing calculators for the Tatum municipal school district in Lea county;

372. fifty thousand dollars (\$50,000) to purchase and install lighting, including removal of existing lighting, at the football and track facility in the Tatum municipal school district in Lea county;

373. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip a school-based health clinic for the Hondo Valley public school district in Lincoln county;

374. fifty thousand dollars (\$50,000) to renovate, purchase and install equipment for the Cesar Chavez working classroom in the Deming public school district in Luna county;

375. thirty-five thousand dollars (\$35,000) to purchase and equip an activity bus for the Mora independent school district in Mora county;

376. five hundred thousand dollars (\$500,000) to construct an athletic sports complex in the Mora independent school district in Mora county;

377. fifty thousand dollars (\$50,000) to plan, design, equip and furnish the Alfred Romero gymnasium in the Wagon Mound public school district in Mora county;

378. twenty-five thousand dollars (\$25,000) to purchase and equip vehicles for the Wagon Mound public school district in Mora county;

379. twenty thousand dollars (\$20,000) to plan, design, purchase and install equipment for a media training, career preparation and job training center in the south valley of Albuquerque, serving the Rio Grande and Albuquerque high school clusters and charter schools in their respective areas in the Albuquerque public school district and high schools, middle schools and charter schools in the Los Lunas public school district in Valencia county;

380. one hundred fifty thousand dollars (\$150,000) to conduct site work and surfacing, and purchase and install playground equipment and shade structures, in the Alamogordo public school district in Otero county;

381. sixty thousand dollars (\$60,000) to purchase and install playground equipment at Cloudcroft elementary school in the Cloudcroft municipal school district in Otero county;

382. eighty-six thousand dollars (\$86,000) to purchase and install motorized telescope bleachers on the home side of the gymnasium, including the removal of existing bleachers, for Cloudcroft high school in the Cloudcroft municipal school district in Otero county;

383. twenty-five thousand dollars (\$25,000) to purchase and install motorized telescope bleachers on the visitor side of the gymnasium, including the removal of existing bleachers, for Cloudcroft high school in the Cloudcroft municipal school district in Otero county;

384. one hundred twenty thousand dollars (\$120,000) to purchase equipment and purchase and install lighting, including electrical equipment, for the football field at Cloudcroft high school in the Cloudcroft municipal school district in Otero county;

385. fifty-four thousand dollars (\$54,000) to purchase and install motorized telescope bleachers, including the removal of existing bleachers, for Cloudcroft middle school in the Cloudcroft municipal school district in Otero county;

386. thirty thousand dollars (\$30,000) to purchase track equipment for the Cloudcroft municipal school district in Otero county;

387. forty thousand dollars (\$40,000) to purchase a vehicle for use by the Cloudcroft municipal school district in Otero county;

388. sixty thousand dollars (\$60,000) to purchase and equip a vehicle to be used for athletic events in the Tularosa municipal school district in Otero county;

389. twenty-five thousand dollars (\$25,000) to purchase and install educational technology related to the governor's laptop initiative, including related equipment and furniture, for the Tularosa municipal school district in Otero county;

390. seventy-five thousand dollars (\$75,000) to purchase and equip school buses for the House municipal school district in Quay county;

391. twenty-five thousand dollars (\$25,000) to purchase a vehicle for the future farmers of America and agricultural science program for the Logan municipal school district in Quay county;

392. fifty thousand dollars (\$50,000) for asbestos abatement in Escalante high school in the Chama Valley independent school district in Rio Arriba county;

393. eighteen thousand dollars (\$18,000) to purchase and install bleachers at the football field for Escalante high school in the Chama Valley independent school district in Rio Arriba county;

394. ten thousand dollars (\$10,000) to remodel the press box at the football field for Escalante high school in the Chama Valley independent school district in Rio Arriba county;

395. fifty thousand dollars (\$50,000) to plan and design Tierra Amarilla elementary school in the Chama Valley independent school district in Rio Arriba county;

396. one hundred fifty thousand dollars (\$150,000) to purchase and install educational technology, including related equipment and furniture, for Espanola military academy in the Espanola public school district in Rio Arriba county;

397. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, renovate and equip an alternative school in the Espanola public school district in Rio Arriba county;

398. one hundred thousand dollars (\$100,000) to construct, equip and furnish the technology center at Espanola Valley high school in the Espanola public school district in Rio Arriba county;

399. thirty-five thousand dollars (\$35,000) to plan, design and construct infrastructure and classroom facilities, including portables, at Mountain View elementary school in the Espanola public school district in Rio Arriba county;

400. one hundred thirty thousand dollars (\$130,000) to purchase an activity bus for the Dora consolidated school district in Roosevelt county;

401. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and furnish a baseball field in the Elida municipal school district in Roosevelt county;

402. fifty thousand dollars (\$50,000) to plan, design, construct and purchase athletic fields and facilities in honor of Oscar Acosta in the Elida municipal school district in Roosevelt county;

403. one hundred thirty thousand dollars (\$130,000) to purchase, install and construct improvements, including security equipment, at facilities in the Portales municipal school district in Roosevelt county;

404. two hundred thousand dollars (\$200,000) to demolish, plan, design, construct and equip a performing arts center for the Aztec municipal school district in San Juan county;

405. ninety-eight thousand dollars (\$98,000) to replace the roof for the auditorium at Bloomfield high school in the Bloomfield school district in San Juan county;

406. two hundred thousand dollars (\$200,000) to replace the main boiler at Naaba Ani elementary school in the Bloomfield school district in San Juan county;

407. ten thousand dollars (\$10,000) to purchase science and mathematics equipment and supplies for Bridge Academy charter high school in the Las Vegas city public school district in San Miguel county;

408. one hundred thirty-five thousand dollars (\$135,000) to purchase and equip an activity bus for the Las Vegas city public school district in San Miguel county;

409. two hundred thousand dollars (\$200,000) to purchase and install scoreboards for the athletic program in the Las Vegas city public school district in San Miguel county;

410. fifty thousand dollars (\$50,000) to construct a satellite memorial for the Las Vegas city public school district in San Miguel county;

411. fifty-five thousand dollars (\$55,000) to plan and design the New Beginnings center at Los Ninos elementary school in the Las Vegas city public school district in San Miguel county;

412. forty thousand dollars (\$40,000) to purchase equipment for the music programs at Valley elementary school and Valley middle school in the west Las Vegas public school district in San Miguel county;

413. seventy-nine thousand two hundred eighty-five dollars (\$79,285) to purchase and equip an activity bus for the west Las Vegas public school district in San Miguel county;

414. eight hundred fifty thousand dollars (\$850,000) to construct and renovate the multipurpose football, track, soccer and tennis facility for the west Las Vegas public school district in San Miguel county;

415. fifteen thousand dollars (\$15,000) to plan, design, construct, purchase, equip and furnish portables for multiuse science buildings, including an integrated greenhouse, in the west Las Vegas public school district in San Miguel county;

416. seventy-five thousand dollars (\$75,000) to purchase and install educational technology, including related equipment, furnishings and wiring, at Corrales elementary school in the Albuquerque public school district in Sandoval county;

417. seventy-five thousand dollars (\$75,000) to purchase and install a security system and related infrastructure at Corrales elementary school in the Albuquerque public school district in Sandoval county;

418. fifty thousand dollars (\$50,000) to plan, design, construct and equip the playground, fields and tracks at Placitas elementary school in the Bernalillo public school district in Sandoval county;

419. one hundred thousand dollars (\$100,000) for playground and athletic field improvements and equipment at Martin Luther King, Jr. elementary school in the Rio Rancho public school district in Sandoval county;

420. one hundred thousand dollars (\$100,000) for playground and athletic field improvements and equipment at Puesta del Sol elementary school in the Rio Rancho public school district in Sandoval county;

421. ten thousand dollars (\$10,000) to purchase pole vault mats for Rio Rancho high school in the Rio Rancho public school district in Sandoval county;

422. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and furnish a soccer complex at Rio Rancho high school in the Rio Rancho public school district in Sandoval county;

423. twenty-five thousand dollars (\$25,000) to purchase and install bleachers, repair the electrical system and make improvements to the fencing, batting cages and concession buildings and surrounding areas at little league fields in the Pojoaque Valley public school district in Santa Fe county;

424. eighty thousand dollars (\$80,000) to design, renovate and reconstruct phase 1 of the domestic water system and fire flow protection lines on the Pojoaque middle school campus in the Pojoaque Valley public school district in Santa Fe county;

425. fifty thousand dollars (\$50,000) to purchase and install educational technology, including related network infrastructure, equipment and furniture, for the

academy for technology and the classics in the Santa Fe public school district in Santa Fe county;

426. one hundred thirty-five thousand dollars (\$135,000) to furnish and equip, including lockers and lunchroom tables, the academy for technology and the classics in the Santa Fe public school district in Santa Fe county;

427. one hundred seventy-five thousand dollars (\$175,000) to replace the roof at Agua Fria elementary school in the Santa Fe public school district in Santa Fe county;

428. one hundred thousand dollars (\$100,000) to plan, design and construct replacement of the roof at Atalaya elementary school in the Santa Fe public school district in Santa Fe county;

429. twenty-five thousand dollars (\$25,000) to purchase and install educational technology, including related equipment and furniture, at charter school 37 in the Santa Fe public school district in Santa Fe county;

430. one hundred seventy thousand dollars (\$170,000) to plan, design and construct a roof replacement at Eldorado elementary school in the Santa Fe public school district in Santa Fe county;

431. fifty thousand dollars (\$50,000) to plan, design and construct a synthetic turf field inside the asphalt track at Eldorado elementary school in the Santa Fe public school district in Santa Fe county;

432. one hundred thousand dollars (\$100,000) to plan, design and construct a roof replacement for Gonzales elementary school in the Santa Fe public school district in Santa Fe county;

433. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish, equip and renovate classrooms for Gonzales elementary school in the Santa Fe public school district in Santa Fe county;

434. twenty-five thousand dollars (\$25,000) to replace the roof at Larragoite elementary school in the Santa Fe public school district in Santa Fe county;

435. one hundred five thousand dollars (\$105,000) to plan, design, construct, equip and furnish a multipurpose facility to serve as a gymnasium, theater and multipurpose space for the Monte del Sol charter school in the Santa Fe public school district in Santa Fe county;

436. three hundred seventy-five thousand dollars (\$375,000) to plan, design and construct a perimeter fence at Santa Fe high school in the Santa Fe public school district in Santa Fe county;

437. one hundred fifty thousand dollars (\$150,000) to purchase and install security cameras, including related equipment and furniture, in the Santa Fe public school district in Santa Fe county;

438. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, renovate and equip a regional technical and vocational center in the Santa Fe public school district in Santa Fe county;

439. nine thousand two hundred eighty-five dollars (\$9,285) to resurface tennis courts at the corner of Yucca street and Siringo road in the Santa Fe public school district in Santa Fe county;

440. one hundred thousand dollars (\$100,000) to construct, equip and install an all-weather track facility in the Magdalena municipal school district in Socorro county;

441. twenty thousand dollars (\$20,000) to plan, design and construct a renovation of the pre-kindergarten and head start center at Garfield school in the Socorro consolidated school district in Socorro county;

442. two million five hundred thousand dollars (\$2,500,000) to assist in integrating technology into the learning process by providing computers and related technology at nonpublic schools that are owned, operated or controlled by an entity that owns, operates or controls five or more schools in New Mexico;

443. one million dollars (\$1,000,000) to purchase library books for public school students statewide;

444. three million five hundred thousand dollars (\$3,500,000) to purchase school buses for public schools statewide;

445. two million dollars (\$2,000,000) to install up to four thousand security cameras in public schools statewide, starting with those schools with the highest level of need based on their school safety reporting, and to purchase metal detectors that can be moved from school to school to address specific threats;

446. two million dollars (\$2,000,000) to purchase and install global positioning systems for school buses statewide;

447. one million five hundred thousand dollars (\$1,500,000) to plan and purchase laptops for the laptop initiative for seventh grade students statewide;

448. twenty-five thousand dollars (\$25,000) to purchase and install equipment for the industrial arts classes in the Des Moines municipal school district in Union county;

449. two hundred fifty thousand dollars (\$250,000) to plan, design, equip, furnish and construct renovations, including information technology, landscaping and paving,

for a multipurpose teachers' resource center in the Belen consolidated school district in Valencia county;

450. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish a renovation, including locker rooms, showers, storage areas and offices, at the field house at Belen high school in the Belen consolidated school district in Valencia county;

451. one hundred fifty thousand dollars (\$150,000) to design, construct and equip the gymnasium at Dennis Chavez elementary school in the Belen consolidated school district in Valencia county;

452. fifty thousand dollars (\$50,000) to purchase and install pre-kindergarten playground equipment at Gil Sanchez elementary school in the Belen consolidated school district in Valencia county;

453. forty thousand dollars (\$40,000) to plan, design and construct basketball courts at La Merced elementary school in the Belen consolidated school district in Valencia county;

454. fifty thousand dollars (\$50,000) to replace playground equipment at Rio Grande elementary school and pre-kindergarten facilities in the Belen consolidated school district in Valencia county;

455. forty thousand dollars (\$40,000) to purchase and install a heating, ventilation and air conditioning system for Ann Parish elementary school in the Los Lunas public school district in Valencia county;

456. eighty thousand dollars (\$80,000) for connection of Ann Parish elementary school to the Cypress Gardens community water system in the Los Lunas public school district in Valencia county;

457. one hundred sixty thousand dollars (\$160,000) to plan, design and renovate a building for Bosque Farms elementary school in the Los Lunas public school district in Valencia county;

458. two hundred thousand dollars (\$200,000) to install an artificial surface on the football field at Los Lunas high school in the Los Lunas public school district in Valencia county;

459. one hundred thousand dollars (\$100,000) to purchase and install improvements, including lighting, to the soccer fields at Los Lunas high school in the Los Lunas public school district in Valencia county;

460. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and equip the east side transportation center in the Los Lunas public school district in Valencia county;

461. one hundred ten thousand dollars (\$110,000) to improve the running track at Manzano Vista middle school in the Los Lunas public school district in Valencia county;

462. one hundred twenty-five thousand dollars (\$125,000) to purchase and install bleachers at Valencia high school in the Los Lunas public school district in Valencia county; and

463. one hundred fifteen thousand dollars (\$115,000) to purchase library books and shelving for Valencia high school in the Los Lunas public school district in Valencia county.

## **Chapter 42 Section 56 Laws 2007**

Section 56. ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the energy, minerals and natural resources department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. fifty thousand dollars (\$50,000) to plan, design and construct a multipurpose trail along Fort Selden road in Dona Ana county;

2. five hundred thousand dollars (\$500,000) to purchase and equip fire trucks and carriers statewide;

3. five hundred thousand dollars (\$500,000) for engineering studies and environmental assessments and to purchase and equip fire trucks, conduct wildfire mitigation projects, increase global information systems capability and develop community wildfire protection plans statewide; and

4. two million dollars (\$2,000,000) for innovative energy projects intended to advance solutions to energy problems that have applicability across the state or regionally.

## **Chapter 42 Section 57 Laws 2007**

Section 57. STATE PARKS DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the state parks division of the energy, minerals and natural resources department for expenditure in fiscal years

2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. three hundred eighty-five thousand five hundred dollars (\$385,500) to plan, design, construct and equip an education facility at Rio Grande nature center state park in Albuquerque in Bernalillo county;
2. twenty-five thousand dollars (\$25,000) for visitor center exhibits at Mesilla Valley Bosque state park in Dona Ana county;
3. one hundred thousand dollars (\$100,000) to acquire land in Selden canyon for the Rio Grande trail in Dona Ana county; and
4. fifty thousand dollars (\$50,000) to plan, design and construct a multiuse trail along the Rio Grande in Bernalillo, Valencia, Sandoval, Socorro, Sierra, Dona Ana, Santa Fe, Rio Arriba and Taos counties.

## **Chapter 42 Section 58 Laws 2007**

Section 58. OFFICE OF THE STATE ENGINEER PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the office of the state engineer for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. one hundred forty-five thousand dollars (\$145,000) to purchase land for, plan, design, construct, equip and install pump stations, storm drainage improvements and emission and detention basins in the Barelvas and Martineztown areas of Albuquerque in Bernalillo county;
2. one hundred thousand dollars (\$100,000) to acquire land for and plan, design and construct dams for flood control in the east mesa area of Dona Ana county;
3. ninety-one thousand nine hundred dollars (\$91,900) to acquire property for, plan, design and construct flooding and drainage improvements in the Vado and Del Cerro areas of Dona Ana county;
4. fifty thousand dollars (\$50,000) to plan, design, renovate and construct flood plain detention, retention and diversion structures along the Rio Penasco in Otero county;
5. five hundred thousand dollars (\$500,000) to plan, design and construct a second diversion point and a reservoir for raw water in Bloomfield in San Juan county;
6. seven hundred fifty thousand dollars (\$750,000) to rebuild a diversion structure on Gallinas creek in Las Vegas in San Miguel county;

7. one hundred forty-five thousand dollars (\$145,000) to plan, design and construct flood control in the Placitas, Algodones and Bernalillo areas in Sandoval county;

8. one million five hundred thousand dollars (\$1,500,000) to plan, design and construct improvements to the Santa Cruz dam and reservoir in the Santa Cruz irrigation district in Santa Fe county;

9. one million dollars (\$1,000,000) to repair and rehabilitate acequia water storage projects statewide;

10. five hundred thousand dollars (\$500,000) for the acquisition of water, water rights and storage rights to assist the state in complying with its interstate compacts and court decrees and in managing water for the benefit of threatened or endangered species;

11. one million dollars (\$1,000,000) for surface water and ground water measurement statewide; and

12. one hundred forty thousand dollars (\$140,000) for a drainage master plan and to design and construct storm drain improvements in Belen in Valencia county.

## **Chapter 42 Section 59 Laws 2007**

Section 59. DEPARTMENT OF ENVIRONMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the department of environment for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. twenty thousand dollars (\$20,000) to plan and design the aquifer storage and recovery project for the Albuquerque- Bernalillo county water utility authority in Bernalillo county;

2. four hundred thousand dollars (\$400,000) to plan, design and construct water and wastewater system improvements for the water utility authority in Bernalillo county;

3. one hundred thirty thousand dollars (\$130,000) to design, purchase and install water storage tanks in the east mountain area of Bernalillo county;

4. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and improve the well and water system in Pajarito mesa in Bernalillo county;

5. forty-five thousand dollars (\$45,000) to plan, design, construct and equip improvements to the water system for the Sierra Vista mutual domestic association in Bernalillo county;

6. two hundred thousand dollars (\$200,000) to plan, design and construct sewer infrastructure on Coors boulevard from Fortuna road to Old Coors drive in Albuquerque in Bernalillo county;

7. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to the sewer interceptor on Coors boulevard between Yucca drive and Central avenue in Albuquerque in Bernalillo county;

8. one hundred thousand dollars (\$100,000) to plan, design, construct and equip water system improvements for the Carnuel mutual domestic water and wastewater consumers association in Carnuel in Bernalillo county;

9. fifty thousand dollars (\$50,000) to plan, design, construct and equip water system infrastructure for the Cedar Crest mutual domestic water consumers and sewage works association in Cedar Crest in Bernalillo county;

10. two hundred thousand dollars (\$200,000) to plan, design, construct and improve the wastewater treatment facility in Corrales in Sandoval county;

11. two hundred ninety-nine thousand two hundred eighty-five dollars (\$299,285) to plan, design and construct a wastewater system in Tijeras in Bernalillo county;

12. one hundred twenty-five thousand dollars (\$125,000) to purchase and install a water storage tank for fire suppression at the fire station in Datil in Catron county;

13. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements, including a building, fire hydrants, well repairs and line replacements, for the Cumberland cooperative water users association in Chaves county;

14. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip improvements to the Fambrough mutual domestic water consumers association water system in Chaves county;

15. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct improvements to a water system, including purchasing and installing fire hydrants and related equipment, for the Greenfield mutual domestic water consumers cooperative in Chaves county;

16. three hundred twenty-four thousand two hundred eighty-five dollars (\$324,285) to plan, design and construct water system improvements, including transmission lines, storage tank, pumps, building and site work, in Lake Arthur in Chaves county;

17. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to a water system for the Bibo mutual domestic water consumers association in Cibola county;

18. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements for the Bluewater Acres domestic water users association in Cibola county;

19. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct improvements, including a new wastewater lagoon and new sewer lines, to the Cebolleta land grant wastewater system in Cibola county;

20. forty thousand dollars (\$40,000) to improve the facility, septic tank and landscaping, including planning, designing and constructing a water tank, for Lobo Canyon fire district 10 in Cibola county;

21. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to a water system for the San Mateo mutual domestic water consumers association in Cibola county;

22. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements for the Seboyeta mutual domestic water consumers association in Cibola county;

23. two hundred thousand dollars (\$200,000) to plan, design, construct and improve the water system in Grants in Cibola county;

24. forty thousand dollars (\$40,000) to repair and replace the water well in the industrial park in Milan in Cibola county;

25. one hundred thousand dollars (\$100,000) to plan, design and construct a water and wastewater system on Berryhill, Marmon and Laurie Lee streets in Milan in Cibola county;

26. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish improvements to the water filter plant in Cimarron in Colfax county;

27. one hundred thousand dollars (\$100,000) to plan, design, construct and improve the water system in Cimarron in Colfax county;

28. one hundred fifteen thousand dollars (\$115,000) to plan, design and construct the replacement of the water transmission lines in Cimarron in Colfax county;

29. one hundred thousand dollars (\$100,000) to plan, design and construct wastewater system improvements and expansion in Eagle Nest in Colfax county;

30. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements in Miami in Colfax county;

31. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and furnish a transfer station and recycling center in Raton in Colfax county;

32. eight hundred thousand dollars (\$800,000) to acquire property for, plan, design and construct a wastewater pre-treatment plant and wastewater infrastructure in Clovis in Curry county;

33. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, equip and install improvements to the wastewater system in Texico in Curry county;

34. seventy thousand dollars (\$70,000) to plan, design and construct water system improvements, including purchasing and installing water lines, fire hydrants and valves and constructing wells, a treatment plant and storage tanks, for the Berino mutual domestic water consumers and mutual sewage works association in Dona Ana county;

35. fifty thousand dollars (\$50,000) to plan, design, construct and equip water system improvements, including purchasing and installing pipeline and fire hydrants, for the Desert Sands mutual domestic water consumers association in Dona Ana county;

36. ninety thousand dollars (\$90,000) to plan, design and construct a water reclamation facility in east mesa in Las Cruces in Dona Ana county;

37. six hundred sixty thousand dollars (\$660,000) to plan and design a regional water and distribution system and treatment and sewer facility for the Lower Rio Grande mutual domestic water association in Dona Ana county;

38. two hundred five thousand dollars (\$205,000) to plan, design, construct and equip water system improvements, including extending water lines, for the Mesquite mutual domestic water consumers and mutual sewage works association in Dona Ana county;

39. seventy thousand dollars (\$70,000) to plan, design, survey, acquire rights of way and construct a wastewater system, including gravity sewer lines and a lift station, in the Montana Vista area of Dona Ana county;

40. one hundred thousand dollars (\$100,000) for a master plan for the water and sanitation district in the unincorporated community of Anthony in Dona Ana county;

41. sixty-five thousand dollars (\$65,000) to plan, design and construct lift stations and wastewater collection lines in Chaparral in Dona Ana county;

42. four hundred thousand dollars (\$400,000) to plan, design and construct a wastewater system, including right-of-way acquisition, in Chaparral in Dona Ana county;

43. five hundred thousand dollars (\$500,000) to plan, design, construct and improve water and wastewater systems in Deming in Luna county;

44. one million five hundred thousand dollars (\$1,500,000) to plan, design and construct water system improvements, including a new water line and well with connection to the arsenic treatment plant, for La Union mutual domestic sewer and water association in La Union in Dona Ana county;

45. one hundred thousand dollars (\$100,000) for remediation of the Griggs and Walnut water plume superfund site in Las Cruces in Dona Ana county;

46. four hundred fifty thousand dollars (\$450,000) for arsenic abatement in Sunland Park in Dona Ana county;

47. seventy thousand dollars (\$70,000) for a feasibility study for a regional landfill in Sunland Park in Dona Ana county;

48. one million dollars (\$1,000,000) to plan, design and construct improvements to the water and wastewater system in Sunland Park in Dona Ana county;

49. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements, including a well and purchase of water rights, for the Cottonwood rural water cooperative in Eddy county;

50. two hundred thousand dollars (\$200,000) to plan, design and construct water and wastewater improvements in the Morningside subdivision and lower subdivision areas in Eddy county;

51. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements to the water system for the Otis mutual domestic water consumers and sewage works association in Eddy county;

52. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements to the Double Eagle water system, including a water reservoir, for the Double Eagle water system in Carlsbad in Eddy county;

53. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements, including renovation of wells and lines, to the Double Eagle well field in Carlsbad in Eddy county;

54. one hundred thousand dollars (\$100,000) for construction of the effluent reuse project at the Carlsbad municipal golf course in Carlsbad in Eddy county;

55. fifty thousand dollars (\$50,000) to plan, design and construct a solid waste transfer station in Carlsbad in Eddy county;

56. one hundred seventy-five thousand dollars (\$175,000) to plan, design and construct water system improvements in Carlsbad in Eddy county;

57. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to various water wells in Carlsbad in Eddy county;

58. three hundred seventy-five thousand dollars (\$375,000) to plan, design and construct a solid waste transfer station for use by Carlsbad and Eddy county in Carlsbad in Eddy county;

59. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements to the water system in Hope in Eddy county;

60. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to the water system for the Malaga mutual domestic water consumers and sewage works association in Eddy county;

61. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, equip and furnish water system improvements for the Pinos Altos mutual domestic water consumers association in Grant county;

62. five hundred thousand dollars (\$500,000) to plan, design, construct and equip a wastewater treatment plant to serve Bayard, Santa Clara and the Fort Bayard state hospital in Bayard in Grant county;

63. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a water system for the Hachita domestic mutual water consumers association in Grant county;

64. one hundred thousand dollars (\$100,000) to plan, design and construct a water system in Hurley in Grant county;

65. four hundred fifty thousand dollars (\$450,000) to plan, design, construct, equip and furnish a wastewater system in Hurley in Grant county;

66. fifty thousand dollars (\$50,000) to plan, design and construct water and sewer system improvements in Santa Clara in Grant county;

67. five hundred thousand dollars (\$500,000) to plan, design and construct improvements to the water and wastewater system in Silver City in Grant county;

68. fifty thousand dollars (\$50,000) to plan, design, construct and equip a water system, including water lines, booster stations, meters, fire hydrants and other related

equipment, for the Hollywood Ranch domestic water users association in Guadalupe county;

69. four hundred thousand dollars (\$400,000) to plan, design and construct improvements to the water and wastewater systems in Santa Rosa in Guadalupe county;

70. ninety-three thousand five hundred dollars (\$93,500) to plan, design, construct and equip a landfill in Vaughn in Guadalupe county;

71. one hundred thousand dollars (\$100,000) to plan, design, equip and construct water and wastewater system improvements in Vaughn in Guadalupe county;

72. fifty thousand dollars (\$50,000) to plan, design and construct water and wastewater system improvements in Mosquero in Harding county;

73. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the water, gas and sewer systems in Lordsburg in Hidalgo county;

74. two hundred fifty thousand dollars (\$250,000) to plan, design and construct utility line extensions in Lea county;

75. two hundred thousand dollars (\$200,000) to plan, design and construct water line improvements in Eunice in Lea county;

76. seven hundred thousand dollars (\$700,000) to plan, design and construct water system improvements, including water wells, storage tanks and a booster station, in Eunice in Lea county;

77. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and improve the water and wastewater system in Hobbs in Lea county;

78. three hundred thousand dollars (\$300,000) to plan, design, construct, equip and furnish the wastewater treatment plant project, including necessary improvements, paving and landscaping, in Hobbs in Lea county;

79. four hundred ninety-five thousand dollars (\$495,000) to plan, design, construct and improve water and sewer utilities and extensions, including right-of-way and easement acquisition, in Hobbs in Lea county;

80. two hundred fifty thousand dollars (\$250,000) to plan, design and construct upgrades to the water and wastewater systems in Jal in Lea county;

81. four hundred twenty-five thousand dollars (\$425,000) to purchase and install radio-read water metering systems in Lovington in Lea county;

82. twenty-five thousand dollars (\$25,000) to plan, design and construct potable-water-gathering infrastructure in Lovington in Lea county;

83. two hundred thousand dollars (\$200,000) to plan, design, construct and equip the Greentree solid waste transfer station and administration buildings in Lincoln county;

84. three hundred sixty-five thousand dollars (\$365,000) to plan, design and construct improvements to the water system, including transmission lines, a filtration system and a storage tank, in Corona in Lincoln county;

85. ninety thousand dollars (\$90,000) to plan, design and construct improvements to the water system for the Lincoln mutual domestic water consumers association and Lincoln sewage works in Lincoln in Lincoln county;

86. three hundred twenty-five thousand dollars (\$325,000) to plan, design, construct and equip the expansion of the wastewater treatment plant in Ruidoso in Lincoln county;

87. two million five hundred thousand dollars (\$2,500,000) to plan, design and construct improvements to the regional wastewater treatment plant in Ruidoso Downs in Lincoln county;

88. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements to the golf course, including water line construction, in Los Alamos county;

89. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to the San Ildefonso road water line in Los Alamos county;

90. eight hundred thousand four hundred eighty-five dollars (\$800,485) to plan, design and construct improvements to water and wastewater systems in Columbus in Luna county;

91. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to the water system, including purchasing and installing related equipment, in Deming in Luna county;

92. fifty thousand dollars (\$50,000) to plan, design and construct wastewater system improvements for the Thoreau water and sanitation district in McKinley county;

93. fifty thousand dollars (\$50,000) to plan, design and construct the Williams Acres water and sanitation district wastewater treatment system project in McKinley county;

94. five hundred forty-five thousand dollars (\$545,000) to plan, design, construct and equip water system improvements for the Mora mutual domestic water consumers and mutual sewage association in Mora county;

95. eighty thousand dollars (\$80,000) to plan, design and construct water system improvements for the Buena Vista mutual domestic water consumers and sewage works association in Mora county;

96. twenty-five thousand dollars (\$25,000) to plan, design and construct a water storage tank and improvements to water lines for the Agua Pura mutual domestic consumers and mutual sewage works association in Chacon in Mora county;

97. three hundred seventeen thousand dollars (\$317,000) to plan, design and construct water and wastewater system improvements, including water transmission and sewer collection lines, in Wagon Mound in Mora county;

98. two hundred thousand dollars (\$200,000) to purchase a solid waste compactor for the southwest solid waste authority of Grant and Hidalgo counties;

99. one hundred thirty thousand two hundred eighty-five dollars (\$130,285) to purchase heavy equipment for the northwest New Mexico solid waste authority in McKinley and Cibola counties;

100. sixty thousand dollars (\$60,000) to purchase steel containers for the northwest New Mexico regional solid waste authority in McKinley and Cibola counties;

101. eighty-five thousand dollars (\$85,000) to plan, design, construct and equip water system improvements, including a water tank, water lines and gate valves, for the Rio Chiquito mutual domestic water consumers and mutual sewage works association in Rio Arriba and Santa Fe counties;

102. thirty thousand dollars (\$30,000) to plan, purchase, design and construct improvements to the potable water storage tank, including a water level gauge and fencing, for the Tres Piedras mutual domestic water consumers association in Tres Piedras in Taos and Rio Arriba counties;

103. two hundred thousand dollars (\$200,000) to plan, design and construct a community water system, including water transmission and distribution lines, for the greater Chimayo mutual domestic water consumers association in Chimayo in Rio Arriba and Santa Fe counties;

104. one hundred ninety thousand dollars (\$190,000) to plan, design and construct improvements to a water system, including purchasing and installing equipment and purchasing water rights, for the Twin Forks mutual domestic water consumers association in Otero county;

105. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements for the Waterfall community water users association in Otero county;

106. one hundred fifty thousand dollars (\$150,000) to plan, design and construct water and wastewater system improvements, including looping the system, in Alamogordo in Otero county;

107. five hundred thirty thousand dollars (\$530,000) to acquire land for and plan, design and construct a water reuse system in Cloudcroft in Otero county;

108. two hundred thousand dollars (\$200,000) to plan, design, construct and improve the water and wastewater system, including replacing water and wastewater lines, in Cloudcroft in Otero county;

109. two hundred thousand dollars (\$200,000) to plan, design, construct and install water system improvements, including water line replacement, fire hydrants and a water storage tank, for La Luz mutual domestic water consumers association and mutual sewage works association in La Luz in Otero county;

110. fifty thousand dollars (\$50,000) to purchase and install a supervisory control and data acquisition system for the Orogrande mutual domestic water consumers and mutual sewage works association in Orogrande in Otero county;

111. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements to the water lines in the Timberon water and sanitation district in Otero county;

112. thirty-five thousand dollars (\$35,000) to plan, design and construct wastewater system improvements, including water main replacement, in the Timberon water and sanitation district in Otero county;

113. four hundred thousand dollars (\$400,000) to acquire land for and plan, design and construct a water plant and storage ponds in Tularosa in Otero county;

114. three hundred thousand dollars (\$300,000) to plan, design and construct a wastewater collection and treatment center in Logan in Quay county;

115. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a water and wastewater system in Logan in Quay county;

116. one hundred thousand dollars (\$100,000) to plan, design and construct wastewater system improvements in San Jon in Quay county;

117. two hundred fifty thousand dollars (\$250,000) to design, construct and equip a solid waste landfill in Tucumcari in Quay county;

118. fifty thousand dollars (\$50,000) to plan, design and construct a well, pump house, water storage tank, water lines and applicable appurtenances for the Ancones mutual domestic water and wastewater consumers association in Rio Arriba county;

119. thirty-nine thousand dollars (\$39,000) to plan, design and construct improvements for the Canones mutual domestic water consumers and mutual sewage works association in Rio Arriba county;

120. thirty thousand dollars (\$30,000) to plan, design and construct improvements to la asociacion de agua de los Brazos water system in Rio Arriba county;

121. ninety-six thousand dollars (\$96,000) to plan, design and construct infrastructure improvements to the water system for Lybrook mutual domestic water consumers association in Rio Arriba county;

122. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct improvements to the water system for the Alcalde mutual domestic water consumers and mutual sewage works association in Rio Arriba county;

123. eighty-five thousand dollars (\$85,000) to plan, design, construct and equip water system improvements and renovations, including construction of a well, for the Canjilon mutual domestic water consumers and mutual sewage works association in Canjilon in Rio Arriba county;

124. two hundred thirty-two thousand two hundred eighty-five dollars (\$232,285) to plan, design, construct and equip a sewer treatment plant in Chama in Rio Arriba county;

125. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip and install a well and pump house, including integration into the existing water facility, for the Chamita mutual domestic water consumers and sewage works association in Chamita in Rio Arriba county;

126. fifty thousand dollars (\$50,000) to plan, design and construct wastewater system improvements for the Cordova mutual domestic water consumers association in Rio Arriba county;

127. eighty thousand dollars (\$80,000) to plan, design and construct water system improvements for the Ensenada mutual domestic water consumers and mutual sewage works association in Rio Arriba county;

128. one million dollars (\$1,000,000) to plan, design, construct and improve the water system in Espanola in Rio Arriba county;

129. one hundred thousand dollars (\$100,000) to improve well 7, including nitrate level reduction, in Espanola in Rio Arriba county;

130. fifty thousand dollars (\$50,000) to plan, design and construct a water storage tank for the Tierra Amarilla mutual domestic water association in Tierra Amarilla in Rio Arriba county;

131. one hundred fifty thousand dollars (\$150,000) to design and construct improvements to the water system, including replacing the water storage tank and control system, in Elida in Roosevelt county;

132. three hundred thousand dollars (\$300,000) to plan, design and construct infrastructure for the water system for the Blanco mutual domestic water consumers and mutual sewage works association in San Juan county;

133. three hundred thousand dollars (\$300,000) to plan, design and construct a wastewater system in Flora Vista in San Juan county;

134. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to the water distribution system for the North Star domestic water consumers and mutual sewer works cooperative in San Juan county;

135. seventy-four thousand dollars (\$74,000) to plan, design, construct and equip water system improvements for El Valle water alliance in San Miguel county;

136. fifty thousand dollars (\$50,000) to plan, design and construct water and wastewater system improvements for La Pasada mutual domestic water consumers and sewage works association in San Miguel county;

137. forty-nine thousand two hundred eighty-five dollars (\$49,285) to plan, design, construct and equip water system improvements for the Lower Colonias mutual domestic water consumers association in San Miguel county;

138. ninety thousand dollars (\$90,000) to plan, design, construct and equip improvements, including a well and storage tank, for the Rowe mutual domestic water consumers association in San Miguel county;

139. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements and to purchase and install information technology, including related equipment and technology, in Tecolotito in San Miguel county;

140. fifty thousand dollars (\$50,000) to purchase, design and install water meters in Pecos in San Miguel county;

141. ten thousand dollars (\$10,000) to plan, design and construct water system improvements, including a well house and meters, for the Ribera mutual domestic water consumers association in San Miguel county;

142. thirty thousand dollars (\$30,000) to plan, design and construct an emergency well in San Jose in San Miguel county;

143. thirty thousand dollars (\$30,000) to plan, design and construct water system improvements for the Tecolote mutual domestic water consumers association in Tecolote in San Miguel county;

144. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct, equip and furnish a regional water system for the San Luis-Cabazon mutual domestic water association in Sandoval county;

145. one hundred twelve thousand dollars (\$112,000) to plan, design and construct a convenience station at the Sandoval county regional landfill in Sandoval county;

146. four hundred nine thousand two hundred eighty-five dollars (\$409,285) to plan, design, construct and equip phase 2 of the waste conversion and composting facility in Sandoval county;

147. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements, including related equipment and technology, for the Sile mutual domestic water association and sewage works association in Sile in Sandoval county;

148. two hundred thousand dollars (\$200,000) to plan, design, construct and equip an arsenic treatment facility in Bernalillo in Sandoval county;

149. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to the water system, including purchasing and installing lines, valves, fire hydrants and meters, in Bernalillo in Sandoval county;

150. seventy-seven thousand dollars (\$77,000) to plan, design and construct a wastewater system in Corrales in Sandoval county;

151. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct water and wastewater system improvements in Cuba in Sandoval county;

152. three hundred fifty thousand dollars (\$350,000) to plan, design, construct and improve the wastewater treatment system in Cuba in Sandoval county;

153. three hundred thousand dollars (\$300,000) to plan, design, construct and equip public water system improvements, including water line replacement and hydrants, for the Jemez Springs domestic water association in Sandoval county;

154. seventy thousand dollars (\$70,000) to plan, design and construct improvements to a water system, including a building to house an ultrafiltration system, chlorinator and water tank, for La Jara mutual domestic water consumers and mutual sewage works association in Sandoval county;

155. two hundred fifty thousand dollars (\$250,000) to plan, design and construct water system improvements for the Pena Blanca mutual domestic water consumers association and mutual sewage works association, including purchasing and installing water lines, valves, fire hydrants and meters, in Pena Blanca in Sandoval county;

156. two hundred thousand dollars (\$200,000) to plan, design and construct water system improvements for the Ponderosa mutual domestic water consumers association and sewage works association in Sandoval county;

157. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to the water treatment plant in San Ysidro in Sandoval county;

158. fifty thousand dollars (\$50,000) for extension of the water and sewer lines from Agua Fria road through Agua Fria road east for approximately one-half mile in Santa Fe county;

159. fifty thousand dollars (\$50,000) to plan, design and construct a sewer line extension on Ben lane in Agua Fria in Santa Fe county;

160. five hundred thousand dollars (\$500,000) for acquiring water rights, including needed applications and transfers, for improvements to the water distribution system and wells and for planning a sewer system in Agua Fria in Santa Fe county;

161. twenty-five thousand dollars (\$25,000) for a sewer line extension from Agua Fria road through Rumbo al Sur road in Agua Fria in Santa Fe county;

162. one hundred forty thousand dollars (\$140,000) to plan, design and construct treatment for uranium and radium 226/228 removal and improvements for the Canoncito at Apache Canyon mutual domestic water consumers and mutual sewage association in Santa Fe county;

163. forty-five thousand dollars (\$45,000) to plan, design, construct, equip and make improvements to the water system for the Cuatro Villas mutual domestic water users association in Santa Fe county;

164. fifty thousand dollars (\$50,000) to plan, design and construct a water system in the Canoncito and Eldorado areas, including the purchase of water rights, in Santa Fe county;

165. seventy-five thousand dollars (\$75,000) to plan, design and construct the water system for the Galisteo mutual domestic water consumers and mutual sewage works association in Santa Fe county;

166. twenty-five thousand dollars (\$25,000) for a sewer line extension in the vicinity of paseo de Tercero and via Don Toribio in Agua Fria in Santa Fe county;

167. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a water and sanitary sewer system for Agua Fria village in Santa Fe county;

168. three hundred fifty thousand dollars (\$350,000) to plan, design, construct and acquire easements and property for a sewer system in the Sombrillo area of Santa Fe county;

169. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and equip wells in Santa Fe county;

170. thirty-five thousand dollars (\$35,000) to plan, design, construct and equip wells, including related water system improvements, in the La Bajada area of Santa Fe county;

171. five hundred thousand dollars (\$500,000) to plan, design and construct improvements to the water system in the Sombrillo area of Santa Fe county;

172. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements for the Cundiyo mutual domestic water consumers association in Cundiyo in Santa Fe county;

173. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a wastewater collection, treatment and disposal system, including purchase and installation of membrane bio-reactor technology, in Edgewood in Santa Fe county;

174. fifty thousand dollars (\$50,000) to upgrade the system-wide mapping of utility components for the Eldorado area water and sanitation district in Santa Fe county;

175. one hundred fifty thousand dollars (\$150,000) to plan, design and construct water storage tank improvements, including improvements to transmission lines and infrastructure, for the Eldorado area water and sanitation district in Santa Fe county;

176. three hundred thousand dollars (\$300,000) to plan, design and construct water system improvements, including a well, storage tank and water lines, in the Eldorado water and sanitation district in Eldorado in Santa Fe county;

177. forty thousand dollars (\$40,000) to plan, design and construct improvements to the water system, including access improvements and water tank replacement, for the Glorieta estates mutual domestic water association in Glorieta in Santa Fe county;

178. two hundred thirty thousand dollars (\$230,000) to plan, design and construct water system improvements for La Cienega mutual domestic water consumers association and mutual sewage works, including purchasing and installing water lines, tanks, valves, fire hydrants and meters, in La Cienega in Santa Fe county;

179. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip a water system, including a storage tank, for the Stanley fire department in Santa Fe county;

180. three hundred fifty thousand dollars (\$350,000) to plan, design and construct line extensions for the wastewater treatment plant collection system in Elephant Butte in Sierra county;

181. seventy-five thousand dollars (\$75,000) to plan, design and construct water system improvements, including water lines, fire hydrants and water meter replacement, in Lemitar in Socorro county;

182. fifty thousand dollars (\$50,000) to plan, design and construct improvements to existing wells, including placing them on-line and purchasing and installing casing, pumps and tie-ins, in Magdalena in Socorro county;

183. fifty thousand dollars (\$50,000) to plan, design, construct and equip a well house, including pump and controls, for Las Trampas domestic water consumers and mutual sewer works association in Las Trampas in Taos county;

184. twenty-five thousand dollars (\$25,000) to plan, design and construct water lines and related infrastructure for the Talpa mutual domestic water consumers association in Talpa in Taos county;

185. one hundred five thousand dollars (\$105,000) to plan, design, construct and equip water system improvements for the Vadito mutual domestic water consumers association in Taos county;

186. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements for the West Rim mutual domestic water users association in Taos county;

187. three hundred fifty thousand dollars (\$350,000) to plan, design, construct and install water system improvements, including a water storage tank, water lines and fire hydrants, for the Cerro regional mutual domestic water consumers and sewage works association in Taos county;

188. six hundred thousand dollars (\$600,000) to plan, design and construct a water system, including replacement of water lines, in Questa in Taos county;

189. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a water and wastewater system in El Valle de los Ranchos water and sanitation district in Ranchos de Taos in Taos county;

190. fifty thousand dollars (\$50,000) to plan, design, construct and equip a biosolids handling facility at the wastewater treatment facility, including improvements to the wastewater treatment facility, in Red River in Taos county;

191. thirty thousand dollars (\$30,000) to purchase vehicles and equipment for the Taos recycling facility in Taos in Taos county;

192. eight hundred fifty thousand dollars (\$850,000) to plan, design and construct improvements to the water system in Taos in Taos county;

193. fifty thousand dollars (\$50,000) to plan, design and construct water and wastewater system improvements, including a generator and drilling a well, in Encino in Torrance county;

194. five hundred thousand dollars (\$500,000) to plan, design and construct improvements to the water and wastewater system in Moriarty in Torrance county;

195. fifty thousand dollars (\$50,000) to plan, design, construct and repair the water system in Des Moines in Union county;

196. ten thousand dollars (\$10,000) to purchase and equip a compactor truck for the Tierra Bonita program in Valencia county;

197. two hundred twenty-five thousand dollars (\$225,000) to replace pumps and related equipment, controls, gears, piping and a generator in the booster station in Belen in Valencia county;

198. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to the water storage tank in Bosque Farms in Valencia county; and

199. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to water and wastewater systems in Bosque Farms in Valencia county.

## **Chapter 42 Section 60 Laws 2007**

Section 60. STATE FAIR COMMISSION PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the state fair commission for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. two hundred thousand dollars (\$200,000) to acquire exhibits and display equipment for the African-American performing arts center and exhibit hall at the state fairgrounds in Albuquerque in Bernalillo county; and

2. one hundred sixty-six thousand dollars (\$166,000) to purchase and install information technology, including related construction, equipment and furniture, at the African-American performing arts and exhibit hall at the state fairgrounds in Albuquerque in Bernalillo county.

## **Chapter 42 Section 61 Laws 2007**

Section 61. DEPARTMENT OF FINANCE AND ADMINISTRATION PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the department of finance and administration for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. one hundred thousand dollars (\$100,000) for a study of the upper Hondo water basin in Lincoln county;

2. two million dollars (\$2,000,000) for infrastructure projects statewide pursuant to the Affordable Housing Act;

3. one million dollars (\$1,000,000) for infrastructure projects related to economic development projects statewide;

4. five hundred thousand dollars (\$500,000) to plan, design, construct, purchase and renovate pre-kindergarten classrooms, including portables, statewide;

5. three hundred fifty thousand dollars (\$350,000) to purchase and install information technology, including related equipment and furniture, for the statewide regional housing initiative;

6. five million dollars (\$5,000,000) to provide funding for tribal infrastructure projects related to water, wastewater, electrical systems, communications, roads, health, emergency facilities and economic development statewide;

7. fourteen million dollars (\$14,000,000) to plan, design, construct, renovate, improve, purchase and equip a state center for advanced computing;

8. one million dollars (\$1,000,000) for land, wildlife and clean energy projects, conservation easements and fee land acquisitions for working farms or ranches, forests or watersheds, natural areas, outdoor recreation and trails and wildlife habitat and to fund land and habitat restoration and management and other clean energy projects statewide;

9. one million dollars (\$1,000,000) for the New Mexico mortgage finance authority to provide heating, air conditioning and weatherization facilities and systems and energy-efficiency improvements that are affixed to real property statewide;

10. four million dollars (\$4,000,000) to conduct leak detection, regional and demonstration projects for water systems across the state; and

11. two million five hundred thousand dollars (\$2,500,000) for projects that restore in-stream ecosystem function and watershed health to major river basins statewide.

## **Chapter 42 Section 62 Laws 2007**

Section 62. STATE FIRE MARSHAL PROJECT--GENERAL FUND.-- Fifty thousand dollars (\$50,000) is appropriated from the general fund to the state fire marshal for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to plan, design and construct a connection between the firefighter training academy and the city sewer in Socorro and for infrastructure improvements, including sewers, roof replacement, fuel storage tanks, educational facilities, pumping and cooling systems, parking and landscaping, at the firefighter training academy in Socorro in Socorro county.

## **Chapter 42 Section 63 Laws 2007**

Section 63. DEPARTMENT OF GAME AND FISH PROJECT-- GENERAL FUND.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the department of game and fish for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to purchase water rights for wildlife and habitat protection in Selden canyon in Dona Ana county.

## **Chapter 42 Section 64 Laws 2007**

Section 64. GOVERNOR'S COMMISSION ON DISABILITY PROJECT-- GENERAL FUND.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the governor's commission on disability for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to plan, design and construct improvements to the community outreach program for the deaf facility in Albuquerque in Bernalillo county.

## **Chapter 42 Section 65 Laws 2007**

Section 65. DEPARTMENT OF HEALTH PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the department of health for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. five hundred thousand dollars (\$500,000) to purchase magnetic resonance imaging equipment for Bernalillo county;
2. five hundred thousand dollars (\$500,000) to plan and construct a home for developmentally disabled and autistic children in Albuquerque in Bernalillo county; and
3. fifty-six thousand dollars (\$56,000) to purchase and equip a vehicle for a mobile dental clinic in Dona Ana county.

## **Chapter 42 Section 66 Laws 2007**

Section 66. INDIAN AFFAIRS DEPARTMENT PROJECTS--GENERAL FUND.--  
The following amounts are appropriated from the general fund to the Indian affairs department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. twenty thousand dollars (\$20,000) to plan, design and construct parking lot improvements, including resurfacing, at the Indian pueblo cultural center in Albuquerque in Bernalillo county;
2. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and renovate the east entry and courtyard at the Indian pueblo cultural center in Albuquerque in Bernalillo county;
3. three hundred fifty-two thousand six hundred ninety-seven dollars (\$352,697) to plan, design, construct, renovate and equip improvements and additions to the Indian pueblo cultural center in Albuquerque in Bernalillo county;
4. twenty-five thousand dollars (\$25,000) to purchase and install information technology, including related equipment and furniture, for the early childhood degree program at southwestern Indian polytechnic institute in Albuquerque in Bernalillo county;
5. seven hundred thousand dollars (\$700,000) to plan, design and construct a library in the Isleta education center at the Pueblo of Isleta in Bernalillo county;
6. one hundred thousand dollars (\$100,000) to plan, design and construct a judicial complex at the Pueblo of Isleta in Bernalillo county;
7. seventy-five thousand dollars (\$75,000) to construct a Mousetown neighborhood park in the Pueblo of Isleta in Bernalillo county;
8. one hundred ten thousand dollars (\$110,000) to purchase and equip school buses for the Pueblo of Isleta in Bernalillo county;

9. one hundred thousand dollars (\$100,000) to purchase and equip a road grader for the school in the To'hajiilee chapter of the Navajo Nation in Bernalillo county;

10. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a water line linking the community water distribution system to the city of Albuquerque system for the To'Hajiilee chapter of the Navajo Nation in Bernalillo county;

11. two hundred fifty thousand dollars (\$250,000) to plan, design and renovate the Acoma complex, including the boys' and girls' club, at the Pueblo of Acoma in Cibola county;

12. twenty-five thousand dollars (\$25,000) to purchase and equip vehicles for the police department in the Pueblo of Acoma in Cibola county;

13. fifty thousand dollars (\$50,000) to plan, design, construct and renovate the skyline lagoon system at the Pueblo of Acoma in Cibola county;

14. seventy-five thousand dollars (\$75,000) to plan, design and construct a wastewater treatment facility at the Pueblo of Acoma in Cibola county;

15. seventy-five thousand dollars (\$75,000) to purchase, install and equip a health center, including dental equipment, for the Laguna Pueblo middle school in the Pueblo of Laguna in Cibola county;

16. forty thousand dollars (\$40,000) to plan and design a veterans' services facility at the Pueblo of Laguna in Cibola county;

17. one hundred thousand dollars (\$100,000) to plan, design, construct and make improvements to the public water system at the Pueblo of Laguna in Cibola county;

18. thirty-five thousand dollars (\$35,000) to purchase and equip ambulances for use by the Pine Hill health center in the Ramah chapter in Cibola county;

19. ten thousand dollars (\$10,000) to repair and renovate the greenhouses at the Pine Hill school farm in the Ramah chapter in Cibola county;

20. forty-five thousand dollars (\$45,000) to equip and furnish a parent center for the Pine Hill school in the Ramah chapter in Cibola county;

21. seventy thousand dollars (\$70,000) to plan, design, construct and equip a kitchen for the Pine Hill school dormitory in the Ramah chapter in Cibola county;

22. twenty-five thousand dollars (\$25,000) to purchase and install information technology, including related equipment and furnishings, for use by the Ramah chapter in Cibola county;

23. fifty thousand dollars (\$50,000) to purchase and equip a tractor for use by the natural resources department in the Ramah chapter in Cibola county;

24. twenty thousand dollars (\$20,000) to plan, design and construct improvements to the Pine Hill sewer lagoon system in the Ramah chapter in Cibola county;

25. twenty-five thousand dollars (\$25,000) to expand and upgrade powerlines in the unit 5 area of the Ramah chapter in Cibola county;

26. twenty-five thousand dollars (\$25,000) to plan, design and construct telephone lines in the Ramah chapter in Cibola county;

27. thirty-eight thousand seven hundred fifty dollars (\$38,750) to construct bathroom additions in the Coalmine area of the Fort Defiance chapter of the Navajo Nation in McKinley county;

28. five hundred thousand dollars (\$500,000) to plan, design, construct and equip a transportation building for the Navajo Nation in McKinley county;

29. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and install bathroom additions in the Baca chapter of the Navajo Nation in McKinley county;

30. fifty thousand dollars (\$50,000) to plan, design and construct bathroom additions in the Becenti chapter of the Navajo Nation in McKinley county;

31. twenty-nine thousand dollars (\$29,000) to design and construct bathroom additions and purchase and install bathroom fixtures that comply with the Americans with Disabilities Act of 1990 in the Bread Springs chapter of the Navajo Nation in McKinley county;

32. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the chapter house in the Bread Springs chapter of the Navajo Nation in McKinley county;

33. twenty-five thousand dollars (\$25,000) to purchase a motor grader for the Bread Springs chapter of the Navajo Nation in McKinley county;

34. one hundred fourteen thousand dollars (\$114,000) to plan, design and construct powerline extensions in the Bread Springs chapter of the Navajo Nation in McKinley county;

35. fifty thousand dollars (\$50,000) to plan, design, construct and equip an addition to the chapter house in the Bread Springs chapter of the Navajo Nation in McKinley county;

36. seventy-five thousand dollars (\$75,000) to plan and construct a maintenance patrol yard for use by the chapters of Bread Springs, Chichiltah and Red Rock in the Bread Springs chapter of the Navajo Nation in McKinley county;

37. fifty thousand dollars (\$50,000) to plan, design and construct bathroom additions in the Casamero Lake chapter of the Navajo Nation in McKinley county;

38. forty-five thousand dollars (\$45,000) to design and construct renovations to the warehouse in the Casamero Lake chapter of the Navajo Nation in McKinley county;

39. fifty thousand dollars (\$50,000) to plan and design a gateway community tourism complex, including an interpretive center, hospitality training center and cultural center, for the Navajo Nation's eastern tourism development department in the Church Rock chapter of the Navajo Nation in McKinley county;

40. eighty-five thousand dollars (\$85,000) to purchase and equip a backhoe for the Coyote Canyon chapter of the Navajo Nation in McKinley county;

41. one hundred thousand dollars (\$100,000) to renovate and expand the chapter house in the Coyote Canyon chapter of the Navajo Nation in McKinley county;

42. five hundred thousand dollars (\$500,000) for infrastructure for the internet to hogans program in Crownpoint in McKinley county;

43. four hundred fifty thousand dollars (\$450,000) to plan, design, construct, equip and furnish a wellness center, including purchasing a modular building, in Crownpoint in McKinley county;

44. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and furnish a culinary arts building and hospitality center at Navajo technical college in Crownpoint in McKinley county;

45. five hundred fifty thousand dollars (\$550,000) to plan, design, construct, equip and furnish a building to house the internet to hogans program at Navajo technical college in Crownpoint in McKinley county;

46. fifty thousand dollars (\$50,000) to plan, design and construct bathroom additions as part of the Borrego Pass community water supply and waste disposal facility project in the Crownpoint chapter of the Navajo Nation in McKinley county;

47. sixty thousand dollars (\$60,000) to plan, design and construct a powerline extension to the judicial and public safety facility in the Crownpoint chapter of the Navajo Nation in McKinley county;

48. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish the eastern Navajo administration complex and retail center in the Crownpoint chapter of the Navajo Nation in McKinley county;

49. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct an expansion to the educational facility at Dine college in the Crownpoint chapter of the Navajo Nation in McKinley county;

50. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to the community well in the Iyanbito chapter of the Navajo Nation in McKinley county;

51. fifty thousand dollars (\$50,000) to renovate, equip and furnish the chapter house in the Iyanbito chapter of the Navajo Nation in McKinley county;

52. sixty thousand dollars (\$60,000) to improve the Iyanbito and Perea head start center sewage systems in the Iyanbito chapter of the Navajo Nation in McKinley county;

53. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a warehouse in the Iyanbito chapter of the Navajo Nation in McKinley county;

54. seventy thousand dollars (\$70,000) to plan, design, construct, purchase, install, equip and furnish a head start facility for the Littlewater chapter of the Navajo Nation in McKinley county;

55. one hundred thousand dollars (\$100,000) to plan, design and construct bathroom additions in the Tse de Tha Canyon-Springs area of the Manuelito chapter of the Navajo Nation in McKinley county;

56. one hundred seventy-five thousand dollars (\$175,000) to plan, design and construct a parking lot in the Mariano Lake chapter of the Navajo Nation in McKinley county;

57. fifty-two thousand dollars (\$52,000) to purchase and equip a tractor for the Mariano Lake chapter of the Navajo Nation in McKinley county;

58. one hundred fifty thousand dollars (\$150,000) to purchase and equip a motor grader and gooseneck trailer for the Pinedale chapter of the Navajo Nation in McKinley county;

59. one hundred thousand dollars (\$100,000) to design and construct an office complex in the Red Lake chapter of the Navajo Nation in McKinley county;

60. twenty-five thousand dollars (\$25,000) to construct bathroom additions at the Red Rock chapter of the Navajo Nation in McKinley county;

61. fifty thousand dollars (\$50,000) to purchase, install, equip and furnish a modular office building at the Red Rock chapter of the Navajo Nation in McKinley county;

62. fifty thousand dollars (\$50,000) to plan, design, construct and install powerline extensions at the Red Rock chapter of the Navajo Nation in McKinley county;

63. fifty thousand dollars (\$50,000) to purchase, install, equip and furnish a modular building for use by veterans in the Red Rock chapter of the Navajo Nation in McKinley county;

64. five hundred thousand dollars (\$500,000) to plan, design, construct, equip and furnish a veterans' hall in the Smith Lake chapter of the Navajo Nation in McKinley county;

65. one hundred thousand dollars (\$100,000) to purchase a motor grader for the Standing Rock chapter of the Navajo Nation in McKinley county;

66. fifty thousand dollars (\$50,000) to purchase and equip a road grader for the Thoreau chapter of the Navajo Nation in McKinley county;

67. one hundred thousand dollars (\$100,000) to purchase and equip a backhoe and truck for the Tohatchi chapter of the Navajo Nation in McKinley county;

68. fifty thousand dollars (\$50,000) to plan, design and construct a plumbing system in the kitchen area of the chapter house in the Tohatchi chapter of the Navajo Nation in McKinley county;

69. one hundred thousand dollars (\$100,000) to plan, design and construct a powerline extension in the Tsa-Ya-Toh chapter of the Navajo Nation in McKinley county;

70. fifty thousand dollars (\$50,000) to purchase a motor grader for the Tsa-Ya-Toh chapter of the Navajo Nation in McKinley county;

71. two hundred thousand dollars (\$200,000) to construct a government office complex in the Twin Lakes chapter of the Navajo Nation in McKinley county;

72. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and equip the A Shiwi T'sana skate park at the Pueblo of Zuni in McKinley county;

73. twenty-five thousand dollars (\$25,000) to plan and design a veterans' memorial park at the Pueblo of Zuni in McKinley county;

74. one hundred forty-two thousand dollars (\$142,000) to plan, design, construct and improve the water system in the Pueblo of Zuni in McKinley county;

75. one hundred thousand dollars (\$100,000) to purchase and install fencing and to pave the parking lot and driveways for the building housing the women, infants and children program at the Pueblo of Zuni in McKinley county;

76. fifty thousand dollars (\$50,000) for a feasibility study to determine the infrastructure needs related to wind energy at the Pueblo of Zuni in McKinley county;

77. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct additional cells at the Zuni constructed wetlands and treatment facility to provide storage for overflow of treated wastewater for the Pueblo of Zuni in McKinley county;

78. fifty thousand dollars (\$50,000) to purchase vehicles and equipment for the Ojo Encino chapter of the Navajo Nation in Sandoval and McKinley counties;

79. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and improve wells in Pina in Otero county;

80. ninety thousand dollars (\$90,000) to purchase and equip vehicles for emergency medical services for the Mescalero Apache Tribe in Otero county;

81. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and install streetlights for housing authority subdivisions for the Mescalero Apache Tribe in Otero county;

82. two hundred fourteen thousand two hundred eighty-five dollars (\$214,285) to drill a well, set a pump and construct all connections for the Pena Canyon well for the Mescalero Apache Tribe in Otero county;

83. seventy-five thousand dollars (\$75,000) to repair, connect and equip water tanks for the Mescalero Apache Tribe in Otero county;

84. one hundred thousand dollars (\$100,000) to plan, design, construct and furnish an agriculture building for the department of agriculture of the Jicarilla Apache Nation in Rio Arriba county;

85. seventy-five thousand dollars (\$75,000) to plan, design and construct an addition to the library in the Jicarilla Apache Nation in Rio Arriba county;

86. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements to the water system for the Jicarilla Apache Nation in Dulce in Rio Arriba county;

87. one million dollars (\$1,000,000) to plan, design and construct improvements to the airport at Ohkay Owingeh in Rio Arriba county;

88. fifty thousand dollars (\$50,000) to renovate the head start facility, including purchase and installation of handicapped-accessible playground equipment, at Ohkay Owingeh in Rio Arriba county;

89. one hundred thousand dollars (\$100,000) to plan, design, renovate and equip a library, including improvements to comply with the Americans with Disabilities Act of 1990, in Ohkay Owingeh in Rio Arriba county;

90. two hundred fifty thousand dollars (\$250,000) to plan and design an irrigation system at the Pueblo of Santa Clara in Rio Arriba county;

91. four hundred nineteen thousand dollars (\$419,000) to plan, design, construct, equip and furnish an honors dormitory for Navajo students attending Aztec high school in Aztec in San Juan county;

92. one hundred thousand dollars (\$100,000) to plan, design and construct a water and wastewater system in the Beclabito chapter of the Navajo Nation in San Juan county;

93. two hundred thirty-five thousand dollars (\$235,000) to plan, design and construct a veterans' memorial multipurpose center in the Burnham chapter of the Navajo Nation in San Juan county;

94. five hundred thousand dollars (\$500,000) to plan, design and construct phase 3 improvements to the Navajo preparatory school in Farmington in San Juan county;

95. fifty thousand dollars (\$50,000) to plan, design, construct and furnish a chapter house in the Lake Valley chapter of the Navajo Nation in San Juan county;

96. fifty thousand dollars (\$50,000) to plan, design and construct rodeo grounds in the Lake Valley chapter of the Navajo Nation in San Juan county;

97. fifty thousand dollars (\$50,000) to plan, design and construct a chapter house, including demolition of the existing structure, in the Nageezi chapter of the Navajo Nation in San Juan county;

98. one hundred thousand dollars (\$100,000) to make improvements and repairs to the community center, including the roof, in the Nenahnezad chapter of the Navajo Nation in San Juan county;

99. two hundred thousand dollars (\$200,000) to design and construct a water and wastewater system, including improvements to the Fruitland irrigation project, in the Nenahnezad chapter of the Navajo Nation in San Juan county;

100. one hundred ninety-one thousand dollars (\$191,000) to plan, design and construct an addition to the chapter house in the Newcomb chapter of the Navajo Nation in San Juan county;

101. ten thousand dollars (\$10,000) to purchase and install a security fence in the Red Valley chapter of the Navajo Nation in San Juan county;

102. one hundred twenty-four thousand five hundred dollars (\$124,500) to purchase and equip a backhoe for the Sanostee chapter of the Navajo Nation in San Juan county;

103. one hundred thirty-four thousand three hundred fifty dollars (\$134,350) to plan, design, construct and improve powerline extensions in the Sanostee chapter of the Navajo Nation in San Juan county;

104. seventy-five thousand dollars (\$75,000) to purchase and install information technology, including related equipment and furniture, for the department of Navajo veterans' affairs in Shiprock in San Juan county;

105. six hundred thousand dollars (\$600,000) to plan, design, construct and furnish a twenty-unit transitional housing facility for a domestic violence shelter in Shiprock in San Juan county;

106. four hundred seventy-two thousand four hundred dollars (\$472,400) to plan, design and construct a public-access library at the Shiprock campus of Dine college in the Shiprock chapter of the Navajo Nation in San Juan county;

107. two hundred thousand dollars (\$200,000) to design and construct electric power trunk lines in the Shiprock chapter of the Navajo Nation in San Juan county;

108. one hundred thousand dollars (\$100,000) to plan and design, including environmental and archaeological assessments and flood plain and geological studies, the judicial and public safety complex for the Shiprock chapter of the Navajo Nation in San Juan county;

109. eight hundred thousand dollars (\$800,000) to plan, design and construct water line and sewer system extensions for the Joe Ben camp area in the Shiprock chapter of the Navajo Nation in San Juan county; provided that the Indian affairs department may enter into a joint powers agreement, cost-sharing agreement or contract with the office of environmental health of the Indian health services to plan, design and construct the project;

110. one hundred thousand dollars (\$100,000) to plan, design and construct a child development education facility in the Tse'Daa'Kaan chapter of the Navajo Nation in San Juan county;

111. forty-six thousand dollars (\$46,000) to purchase and equip a backhoe and trailer in the Tse'Daa'Kaan chapter of the Navajo Nation in San Juan county;
112. fifty thousand dollars (\$50,000) to plan, design and construct a powerline in scattered home sites in the White Rock chapter of the Navajo Nation in San Juan county;
113. five hundred fifty thousand dollars (\$550,000) to plan, design and construct a health and wellness center at the Pueblo of Cochiti in Sandoval county;
114. seventy-five thousand dollars (\$75,000) to furnish and equip the indoor and outdoor recreational facilities at the Pueblo of Cochiti in Sandoval county;
115. seventy-five thousand dollars (\$75,000) to plan, design, renovate and construct a head start building at the Pueblo of Jemez in Sandoval county;
116. four hundred thousand dollars (\$400,000) to purchase heavy equipment for the Pueblo of Jemez in Sandoval county;
117. sixty-five thousand dollars (\$65,000) to purchase and equip vehicles for the head start program and the department of education at the Pueblo of San Felipe in Sandoval county;
118. one hundred thirty thousand dollars (\$130,000) to purchase and equip a road grader for the Pueblo of San Felipe in Sandoval county;
119. twenty-five thousand dollars (\$25,000) to plan, design and construct a regional wastewater system, treatment plant, lift stations and lines to serve San Felipe elementary school and a housing development in the Pueblo of San Felipe in Sandoval county;
120. fifty thousand dollars (\$50,000) to purchase and equip handicapped-accessible vehicles for the Pueblo of Sandia in Sandoval county;
121. three hundred fifty thousand dollars (\$350,000) to plan, design and construct improvements to the water system in the Pueblo of Sandia in Sandoval county;
122. two hundred thirty thousand dollars (\$230,000) to plan, design, construct and equip a multipurpose education and wellness center at the Pueblo of Santa Ana in Sandoval county;
123. four hundred seventy thousand dollars (\$470,000) to purchase, install and equip firefighting apparatus and vehicles for the Pueblo of Santa Ana in Sandoval county;

124. three hundred thirty-eight thousand dollars (\$338,000) to plan, design and construct water system improvements, including a water storage tank and connection to an existing system, for the Pueblo of Santa Ana in Sandoval county;

125. nine hundred twenty-five thousand dollars (\$925,000) to plan, design and construct an emergency medical services and fire station facility in the Pueblo of Santo Domingo in Sandoval county;

126. eighty-two thousand dollars (\$82,000) to plan, design and construct a police substation in the Torreon-Star Lake chapter of the Navajo Nation in Sandoval county;

127. two hundred thousand dollars (\$200,000) to plan, design, construct and equip an ambulatory care facility at the Pueblo of Zia in Sandoval county;

128. two hundred sixty-four thousand two hundred eighty-five dollars (\$264,285) to plan, design and construct improvements to the irrigation system in the Pueblo of Zia in Sandoval county;

129. seventy-five thousand dollars (\$75,000) to purchase, plan, design and construct telecommunications equipment at the Pueblo of Zia in Sandoval county;

130. ninety thousand dollars (\$90,000) to renovate and equip administration building number one, including landscaping, a parking lot, flooring, security and access improvements to comply with the Americans with Disabilities Act of 1990, at the Pueblo of Nambe in Santa Fe county;

131. ten thousand dollars (\$10,000) to plan, design and construct site and facility improvements, including handicapped access and purchasing and installing an eyewash station, in the environmental building in the Pueblo of Nambe in Santa Fe county;

132. one hundred forty thousand dollars (\$140,000) to plan, design and construct a water and wastewater system expansion and infrastructure improvements at the Pueblo of Nambe in Santa Fe county;

133. one hundred thousand dollars (\$100,000) to plan, design and construct a traditional and religious ceremonial facility at the Pueblo of Pojoaque in Santa Fe county;

134. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, improve and equip, including information technology and related equipment and furniture, the Poeh cultural center and museum at the Pueblo of Pojoaque in Santa Fe county;

135. five hundred thousand dollars (\$500,000) to plan, design, construct and improve the water and wastewater system in the Pueblo of Pojoaque in Santa Fe county;

136. fifty thousand dollars (\$50,000) to plan, design, construct and equip, including information technology upgrades, the suntower and art studios at the Pueblo of Pojoaque in Santa Fe county;

137. six hundred fifty thousand dollars (\$650,000) to plan, design, construct and equip improvements and additions to recreational facilities and fields, including landscaping and a transport van, at the Pueblo of Pojoaque wellness center in Santa Fe county;

138. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, equip and furnish an addition to the administration and head start building, including purchase and installation of kitchen appliances, recreational facility and equipment for the head start program, at the Pueblo of San Ildefonso in Santa Fe county;

139. one hundred thousand dollars (\$100,000) to plan, design, construct, equip, furnish and purchase and install information technology, including related equipment and furniture, at a community learning center in the Pueblo of San Ildefonso in Santa Fe county;

140. two hundred sixty-four thousand dollars (\$264,000) to plan, design, construct and improve the water system in the Pueblo of San Ildefonso in Santa Fe county;

141. sixty-four thousand two hundred eighty-five dollars (\$64,285) to plan, design, construct, equip and furnish a multipurpose conference and educational center for the institute of American Indian arts in Santa Fe county;

142. ten thousand dollars (\$10,000) to remove and replace the roof, or plan, design and construct roof renovations at the institute of American Indian arts museum in Santa Fe in Santa Fe county;

143. two hundred twenty-four thousand two hundred eighty-five dollars (\$224,285) to plan, design, construct, equip and furnish a multipurpose student residence center at the institute of American Indian arts in Santa Fe in Santa Fe county;

144. fifteen thousand dollars (\$15,000) to purchase and install educational technology, including related furniture and equipment, for the New Mexico Indian leadership program at the Santa Fe Indian school in Santa Fe in Santa Fe county;

145. one million dollars (\$1,000,000) to plan, design and construct a wellness center at Santa Fe Indian school in Santa Fe in Santa Fe county;

146. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish a law enforcement training facility at the Pueblo of Tesuque in Santa Fe county;

147. one hundred thousand dollars (\$100,000) to plan, design and construct a hydrotherapy pool at the Pueblo of Tesuque in Santa Fe county;

148. two hundred thousand dollars (\$200,000) to plan, design and construct a sewage treatment plant in the Alamo chapter in Socorro county;

149. one hundred seventy thousand dollars (\$170,000) to purchase and equip a fire truck for the Pueblo of Picuris in Taos county;

150. two hundred thirty thousand dollars (\$230,000) to repair and renovate the multipurpose building, including roof, electrical, plumbing and heating improvements, at the Pueblo of Picuris in Taos county;

151. one hundred thousand dollars (\$100,000) to conduct an ecological baseline study of the buffalo pasture wetlands, including water resources, geology and hydrology, at the Pueblo of Taos in Taos county; and

152. fifty thousand dollars (\$50,000) to purchase and equip a water truck and a vibratory compactor for the Pueblo of Taos in Taos county.

## **Chapter 42 Section 67 Laws 2007**

Section 67. INTERSTATE STREAM COMMISSION PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the interstate stream commission for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. ten thousand dollars (\$10,000) to plan, design and construct improvements, including road culverts and irrigation turnouts, for acequia de los Padillas in the south valley of Bernalillo county;

2. ten thousand dollars (\$10,000) to plan, design and construct improvements to the Arenal acequia in the south valley of Bernalillo county;

3. fifty-five thousand dollars (\$55,000) to plan, design and construct improvements to acequias in the south valley of Bernalillo county;

4. ten thousand dollars (\$10,000) to plan, design and construct repairs and improvements to the Telesfor acequia in the south valley of Bernalillo county;

5. twenty thousand dollars (\$20,000) to plan, design, engineer and construct improvements to acequias and ditch banks for the Pajarito acequia association in Albuquerque in Bernalillo county;

6. forty thousand dollars (\$40,000) to plan, design, engineer, construct and expand the lateral veins of the Ranchos de Armijo acequia in the south valley of Albuquerque in Bernalillo county;

7. forty-eight thousand dollars (\$48,000) to construct and equip pump houses, including replacement of gas pumps with electric pumps, for the acequia madre de Carnuel in Carnuel in Bernalillo county;

8. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements, including erosion control, to the Cebolletita acequia community irrigation system in Seboyeta in Cibola county;

9. seventy thousand dollars (\$70,000) to plan, design and construct ditch improvements for the east Puerto de Luna community ditch association in Guadalupe county;

10. ten thousand dollars (\$10,000) to design and construct a flume on the Hormigozo ditch in Guadalupe county;

11. fifty thousand dollars (\$50,000) to repair and construct the Labadie ditch in Guadalupe county;

12. one hundred thousand dollars (\$100,000) to plan, design and construct acequia improvements for the west Puerto de Luna acequia association in Guadalupe county;

13. ten thousand dollars (\$10,000) to plan, design and construct improvements, including replacement of earthen banks with concrete walls, to the acequia de los Ranchitos in Anton Chico in Guadalupe county;

14. twenty thousand dollars (\$20,000) to plan, design and construct repairs and improvements to the San Patricio community ditch in Lincoln county;

15. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements, including head gates and a rock wall, to acequia de Encinal and acequia del Canoncito in Mora county;

16. forty thousand dollars (\$40,000) to plan, design and construct improvements to the acequia de la Aguila in Mora county;

17. ten thousand dollars (\$10,000) to plan, design and construct improvements and repairs to the acequia de los Romeros de Holman in Mora county;

18. thirty thousand dollars (\$30,000) to plan, design, construct and improve the diversion dam of the acequia del Alto al Norte in Mora county;

19. ten thousand dollars (\$10,000) to plan, design and construct improvements, including construction of head gates and concrete-lined seepage areas, to the acequia de los Lunas in Chacon in Mora county;

20. twenty thousand dollars (\$20,000) to rebuild the diversion structures for the acequia de la Sierra de Holman in Mora county;

21. thirty thousand dollars (\$30,000) to plan, design and construct improvements, including purchase and installation of ditch lining, to the acequia de la Sierra de Holman in Mora county;

22. ten thousand dollars (\$10,000) to make improvements, including installing culverts and a diversion dam, to la acequia de la Sierra in Mora county;

23. ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia de Rainsville norte in Rainsville in Mora county;

24. sixty-five thousand dollars (\$65,000) for improvements and repairs to the acequia de Santa Cruz in Santa Fe and Rio Arriba counties;

25. twenty-five thousand dollars (\$25,000) for improvements and repairs to the acequia del Llano in Rio Arriba and Santa Fe counties;

26. twenty-five thousand dollars (\$25,000) for improvements and repairs to the acequia Madre in Santa Fe and Rio Arriba counties;

27. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to the Tularosa community ditch reservoir in Otero county;

28. ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia de Alcalde in Rio Arriba county;

29. fifty thousand dollars (\$50,000) to plan, design and construct an arroyo crossing, including purchasing and installing culverts, for the acequia de la Canada Ancha in Rio Arriba county;

30. fifteen thousand dollars (\$15,000) to plan, design and construct improvements to the acequia Junta y Cienega in Rio Arriba county;

31. two hundred thousand dollars (\$200,000) to plan, design, construct and equip improvements to the acequia de Ojo Sarco in Rio Arriba county;

32. ninety thousand dollars (\$90,000) to install improvements, including lining, to the Espinoza lateral ditch of the greater Chimayo mutual domestic water consumers association in Rio Arriba county;

33. thirty thousand dollars (\$30,000) to plan, design and construct improvements to las acequias de El Rito in Rio Arriba county;

34. one hundred thousand dollars (\$100,000) for improvements to the access road to the Salazar and Hernandez ditches, including bridges and diversion structures, for the Salazar ditch association in Rio Arriba county;

35. twenty thousand dollars (\$20,000) to construct improvements, including repairs to the head and diversion gates, to the West Vallecitos community acequia in Rio Arriba county;

36. thirty thousand dollars (\$30,000) to plan, design and construct improvements and repairs to La Puente acequia in Abiquiu in Rio Arriba county;

37. fifteen thousand dollars (\$15,000) to plan, design and construct improvements and repairs to the Tierra Azul acequia in Abiquiu in Rio Arriba county;

38. one hundred thousand dollars (\$100,000) to plan, design and construct improvements, including purchase and installation of non-reinforced concrete material, to the acequia de los Espinosas in Chimayo in Rio Arriba county;

39. ten thousand dollars (\$10,000) to make repairs and improvements to the acequia del Rincon in Dixon in Rio Arriba county;

40. thirty thousand dollars (\$30,000) for a watershed management study for El Rito regional water and wastewater association and the acequias in El Rito in Rio Arriba county;

41. eighty thousand dollars (\$80,000) to plan, design and construct improvements to acequias for the Embudo valley acequia association in Rio Arriba county;

42. four hundred thousand dollars (\$400,000) to purchase water rights and land to convert agricultural wells to municipal and industrial use in Portales in Roosevelt county;

43. ten thousand dollars (\$10,000) to plan, design and construct improvements, including a diversion dam and inlet structure with sluice gate, for the acequia de la Concepcion in San Miguel county;

44. forty thousand dollars (\$40,000) to plan, design and construct improvements to the acequia del Ancon de Saracino, including the diversion dam, in San Miguel county;

45. fifty thousand dollars (\$50,000) to reconstruct the diversion dam for the acequia del Llano in San Miguel county;

46. ten thousand dollars (\$10,000) to plan, design and construct repairs, including replacement of culverts, to the Ancon del Gato acequia in San Miguel county;

47. ten thousand dollars (\$10,000) to plan, design and construct improvements to El Pueblo ditch in San Miguel county;

48. twenty thousand dollars (\$20,000) to construct improvements, including a diversion dam, inlets and gates, to the acequia de la Concepcion in San Miguel county;

49. forty thousand dollars (\$40,000) to repair and to purchase and install pipes and culverts for La Fragua community ditch and dam in Sena in San Miguel county;

50. ten thousand dollars (\$10,000) to plan, design and construct improvements to Los Gonzales ditch in San Miguel county;

51. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements to the Sabinoso community ditch in San Miguel county;

52. sixty thousand dollars (\$60,000) to plan, design and construct improvements to the acequia de Molino in Pecos in San Miguel county;

53. eighty thousand dollars (\$80,000) to plan, design and construct improvements to acequias for the east Pecos ditch association in San Miguel county;

54. forty thousand dollars (\$40,000) to plan, design and construct, including demolition of an existing structure, a permanent inlet structure for the west Pecos acequia association in Pecos in San Miguel county;

55. forty thousand dollars (\$40,000) to plan, design and construct improvements, including repairs to the dam, for the Tecolote acequia association in San Miguel county;

56. sixty thousand dollars (\$60,000) to plan, design and construct improvements and repairs to the main ditch and southside ditch in Villanueva in San Miguel county;

57. twenty thousand dollars (\$20,000) to repair and reconstruct the Villanueva northside ditch dam in San Miguel county;

58. five thousand dollars (\$5,000) to repair and reconstruct the southside ditch in Villanueva in San Miguel county;

59. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to ditches for the acequia de la Jara association in Sandoval county;

60. one hundred thousand dollars (\$100,000) to plan, design and construct a diversion dam for the Jemez river basin acequias in Sandoval county;

61. one hundred sixteen thousand dollars (\$116,000) to plan, design and construct improvements to the rio de las Vacas ditch, including a diversion dam, in Sandoval county;

62. one hundred sixteen thousand dollars (\$116,000) to plan, design and construct a diversion dam on the Jemez river for acequias in Jemez Springs in Sandoval county;

63. twenty-five thousand dollars (\$25,000) to construct and replace water lines for las acequias de Placitas in Sandoval county;

64. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements, including the infiltration system and replacement of concrete linings, for the acequia de la Otra Banda in Jaconita and El Rancho in Santa Fe county;

65. one hundred thousand dollars (\$100,000) to plan, design and construct a subsurface irrigation water collection system for the acequia de los Indios in El Rancho in Santa Fe county;

66. twenty thousand dollars (\$20,000) to improve the acequia del Rio, including water diversion structures, in Cuyamungue in Santa Fe county;

67. forty thousand dollars (\$40,000) to plan, design and construct improvements, including purchase and installation of culverts and head gates, to the acequias de los Chupaderos in Santa Fe county;

68. twenty thousand dollars (\$20,000) to plan, design and construct improvements to la acequia de La Cienega in Santa Fe county;

69. seventy-five thousand dollars (\$75,000) to design and construct improvements to Nambe dam, including ponds, trash rack repairs and dredging, in the Pojoaque Valley irrigation district in Santa Fe county;

70. seventy-five thousand dollars (\$75,000) to make improvements, including grading, lining and culverts, to the acequia de los Ranchos in Chimayo in Santa Fe county;

71. ten thousand dollars (\$10,000) to plan, design, construct and equip improvements to the acequia del Potrero in Chimayo in Santa Fe county;

72. forty thousand dollars (\$40,000) to plan, design, construct and install improvements, including replacement of the diversion dam and head gate and design and installation of a dike, for the acequia de Juan Sena and Garduno ditch in Nambe in Santa Fe county;

73. seventy-five thousand dollars (\$75,000) to make improvements, including replacing the diversion dam, structures and head gate, to the combined acequias of los Gardunos and Juan Sena in Nambe in Santa Fe county;

74. eighty thousand dollars (\$80,000) to plan, design and construct improvements to the acequia del Rincon in Nambe in Santa Fe county;

75. sixty-five thousand dollars (\$65,000) to plan, design and construct repairs and upgrades to the acequia Nueva, including compuertas and tree removal, in Nambe in Santa Fe county;

76. twenty-five thousand dollars (\$25,000) for repairs and improvements to acequias Nueva, Llano and Comunidad in Nambe in Santa Fe county;

77. ten thousand dollars (\$10,000) to repair and construct improvements to the acequia and diversion structure for the acequia de Los Trujillos in Pojoaque in Santa Fe county;

78. eighty-six thousand five hundred dollars (\$86,500) to plan, design and improve the diversion dam and the pipelines, including constructing a retaining wall, for Las Palomas community ditch association in Sierra county;

79. fifteen thousand dollars (\$15,000) to plan, design and construct improvements, including replacement of compuertas, for the acequias de Llano de San Juan Nepomuceno in Llano de San Juan in Taos county;

80. thirty thousand dollars (\$30,000) to plan, design and construct improvements, including an irrigation distribution system, for a lateral of the acequia de Monte del Rio Chiquito in Taos county;

81. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to the acequia del Monte del Rio Chiquito in Taos county;

82. two thousand dollars (\$2,000) to plan, design and construct improvements, including clearing banks and installing head gates, to Los Lovatos acequia in Taos county;

83. sixty thousand dollars (\$60,000) to plan, design and construct a pipeline for the Rio Costilla ditch association in Taos county;

84. sixty-five thousand dollars (\$65,000) to plan, design and construct a diversion dam and head gate at the Rio Santa Barbara for the acequia de Chamisal y Ojito and acequia de Llano de San Juan Nepomuceno in Taos county;

85. sixty thousand dollars (\$60,000) to plan, design and construct improvements to acequias, including culverts, in the Talpa area of Taos county;

86. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements to the Talpa ditch and reservoir in Taos county;

87. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements, including furnishing and installing a diameter pipe, constructing gabion basket diversion, slope protection and a perimeter fence, to acequias for the Taos county acequia association in Taos county;

88. one hundred fifty thousand dollars (\$150,000) to purchase water rights for acequias pursuant to the Taos water rights settlement agreement in Taos county;

89. one hundred thousand dollars (\$100,000) to purchase water rights for area acequia associations in Taos county;

90. one hundred thousand dollars (\$100,000) to purchase water rights for El Prado water and sanitation district in El Prado in Taos county; and

91. fifty thousand dollars (\$50,000) to construct a diversion dam at the acequia arriba del valle in El Valle in Taos county.

## **Chapter 42 Section 68 Laws 2007**

Section 68. LOCAL GOVERNMENT DIVISION PROJECTS--GENERAL FUND.--  
The following amounts are appropriated from the general fund to the local government division of the department of finance and administration for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. ten thousand dollars (\$10,000) to plan, design and construct a platform and kiosk, purchase and install a dedication plaque and landscape the area for the Alameda arts project on the corner of Alameda and Rio Grande boulevard in Bernalillo county;

2. one million dollars (\$1,000,000) to acquire land for the railyard in Albuquerque in Bernalillo county;

3. twenty thousand dollars (\$20,000) to acquire land for and plan, design and construct improvements to revitalize the historic railyard area in Albuquerque in Bernalillo county;

4. thirty thousand dollars (\$30,000) to plan, design and construct the south valley demonstration trail along the Atrisco and Arenal drains between Central avenue and Bridge boulevard, including a multiuse trail surface, trailheads, parking, artwork and a grade-separated crossing, in Bernalillo county;

5. twenty-five thousand dollars (\$25,000) for equipment and improvements to the site, facility and field, including improvements to comply with the Americans with Disabilities Act of 1990 and improvements to the concession stand and office facility, for the Atrisco valley little league in Bernalillo county;

6. one hundred ninety thousand dollars (\$190,000) to plan, design, construct and renovate the facility used by the Altamont little league, including improvements to comply with the requirements of the Americans with Disabilities Act of 1990, in Bernalillo county;

7. four hundred ninety-five thousand dollars (\$495,000) to plan, design, construct, equip and furnish the Amistad youth crisis shelter in Bernalillo county;

8. one hundred seventy thousand dollars (\$170,000) to plan, design, renovate and expand the centro familia family and youth services facility in Bernalillo county;

9. three hundred sixty-five thousand dollars (\$365,000) to purchase land for, plan, design, construct, renovate and purchase a facility for the Corinne Wolfe children's services and advocacy center in Bernalillo county;

10. one hundred thousand dollars (\$100,000) to equip the Fisher and Smith memorial gymnasium at the Vista Grande community center in Bernalillo county;

11. two hundred fifty thousand dollars (\$250,000) to purchase land for open space adjacent to the Gutierrez Canyon open space area near Cedar Crest in Bernalillo county;

12. twenty thousand dollars (\$20,000) to acquire land, plan, design and construct a hangar and storage facility for the sheriff's office in Bernalillo county;

13. two hundred twenty-five thousand dollars (\$225,000) to purchase, retrofit and equip helicopters for use in law enforcement and fire suppression activities in Bernalillo county;

14. two hundred seventy-five thousand dollars (\$275,000) to plan, design, construct and renovate the Hiland theater in Bernalillo county;

15. one hundred seventy-five thousand dollars (\$175,000) to purchase and install furnishings and equipment and to construct improvements, including site improvements, for the Hubbell house in Bernalillo county;

16. two hundred thousand dollars (\$200,000) to plan, design and construct improvements, including remodeling living units, communication systems and perimeter fence, at the juvenile detention center in Bernalillo county;

17. two hundred thousand dollars (\$200,000) to construct, equip and furnish improvements to Los Padillas community center, including site improvements and playground structures, in Bernalillo county;

18. ten thousand dollars (\$10,000) to plan, design, construct, equip and furnish a Martin Luther King, Jr. memorial in Bernalillo county;

19. one hundred thirty thousand dollars (\$130,000) to plan, design and construct a transitional housing facility for the metropolitan assessment and treatment services program in Bernalillo county;

20. one hundred ninety-five thousand dollars (\$195,000) to plan, design, construct and equip multipurpose recreation fields in the Mesa del Sol area of Bernalillo county;

21. twenty thousand dollars (\$20,000) to purchase equipment for the New Mexico independent media center in Albuquerque in Bernalillo county;

22. fifteen thousand dollars (\$15,000) to purchase olympic power-lifting exercise testing equipment for a weightlifting program in Bernalillo county;

23. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, renovate and equip a rape crisis center in Bernalillo county;

24. ninety thousand dollars (\$90,000) to purchase, plan, design, construct and renovate the southeast heights children's facility in Bernalillo county;

25. twenty-four thousand dollars (\$24,000) to purchase automated license plate readers for the county sheriff's office in Bernalillo county;

26. one hundred seventy-five thousand dollars (\$175,000) to design and construct light manufacturing bays at the south valley economic development center in Bernalillo county;

27. two hundred eighty thousand dollars (\$280,000) to construct phase 2 of the multipurpose center in the south valley area of Bernalillo county;

28. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and equip a multipurpose family services center in the south valley in Bernalillo county;

29. sixty thousand dollars (\$60,000) to plan, design, construct, equip and furnish a high-volume spay and neuter clinic in the south valley area of Bernalillo county;

30. two hundred thousand dollars (\$200,000) to plan, design and construct a visitor center at the Tijeras pueblo ruins in Bernalillo county;
31. fifty thousand dollars (\$50,000) to plan a re-entry transitional living facility in Bernalillo county for men and women leaving the correctional system;
32. one hundred thousand dollars (\$100,000) to plan, design and construct a multipurpose room for the Westside community center in Bernalillo county;
33. two hundred thousand dollars (\$200,000) to plan, design, construct and equip the Clinton P. Anderson open space park in Bernalillo county;
34. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip improvements, including phone and internet lines, for the East Mountain little league in San Antonito in Bernalillo county;
35. two million twenty-five thousand dollars (\$2,025,000) to plan, design, construct, renovate and equip a state multipurpose equestrian facility on open space property in Bernalillo county;
36. twenty thousand dollars (\$20,000) to purchase and renovate facilities, including exterior sites, for a health clinic and employment center in La Mesa neighborhood in Bernalillo county;
37. two hundred eighty-five thousand dollars (\$285,000) to design, construct, equip and furnish a multipurpose room at the community center adjacent to the North Star elementary school in Bernalillo county;
38. eighty-nine thousand two hundred eighty-five dollars (\$89,285) to plan, design and construct site, facility and infrastructure improvements to the Raymond G. Sanchez community center in Bernalillo county;
39. fifty thousand dollars (\$50,000) to plan, design and construct a business incubator in the southeast heights area of Bernalillo county;
40. fifty thousand dollars (\$50,000) for improvements to the Durand and Beck open space in the south valley of Bernalillo county;
41. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and furnish south valley Gateway park, including a flag pole and veterans' memorial, in Bernalillo county;
42. fifteen thousand dollars (\$15,000) for improvements and equipment for the south valley growers' market in Bernalillo county;

43. one hundred thousand dollars (\$100,000) to construct and equip a multipurpose child abuse prevention and treatment facility in the south valley of Bernalillo county;

44. three million five hundred thousand dollars (\$3,500,000) for necessary infrastructure for an economic development project related to automobile assembly operations in Bernalillo county;

45. two hundred seventy-five thousand dollars (\$275,000) to plan, design and construct improvements to Alameda little league park, parking lot and facilities in Albuquerque in Bernalillo county;

46. twenty-five thousand dollars (\$25,000) to purchase and install exercise equipment for the Alamosa multiservice center in Albuquerque in Bernalillo county;

47. one hundred ten thousand dollars (\$110,000) to plan, design and construct infrastructure and improvements for affordable housing in Albuquerque in Bernalillo county; provided that the appropriation is contingent upon the enactment into law by the first session of the forty-eighth legislature of Senate Bill 534 or similar legislation and further contingent upon an ordinance being enacted pursuant to Section 6-27-7 NMSA 1978;

48. one hundred thousand dollars (\$100,000) to plan, design and construct an affordable housing development at the Sawmill community land trust in Albuquerque in Bernalillo county; provided that the appropriation is contingent upon the enactment into law by the first session of the forty-eighth legislature of Senate Bill 534 or similar legislation and further contingent upon an ordinance being enacted pursuant to Section 6-27-7 NMSA 1978;

49. thirty thousand dollars (\$30,000) to plan and design the amateur athletic world hall of fame museum in Albuquerque in Bernalillo county;

50. seven hundred forty-nine thousand two hundred eighty-five dollars (\$749,285) to plan, design, construct and purchase equipment, furnishings and exhibits, including a flight simulator, for the Anderson-Abruzzo international balloon museum in Albuquerque in Bernalillo county;

51. two million dollars (\$2,000,000) to acquire land and develop the site for an arena in downtown Albuquerque in Bernalillo county;

52. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to and expansion of the Arroyo del Oso tennis complex in Albuquerque in Bernalillo county;

53. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, equip and furnish bathrooms and infrastructure improvements to the Balloon Fiesta park in Albuquerque in Bernalillo county;

54. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish improvements to the Balloon Fiesta park in Albuquerque in Bernalillo county;

55. fifty thousand dollars (\$50,000) to plan, design and construct underground transmission powerlines to facilitate balloon landings in the predominant flight path from Balloon Fiesta park in Albuquerque in Bernalillo county;

56. fifty thousand dollars (\$50,000) to purchase property for landing sites within the predominant flight path of balloons from Balloon Fiesta park in Albuquerque in Bernalillo county;

57. two hundred thousand dollars (\$200,000) to plan, design, construct and equip improvements to the public safety command post and related infrastructure at Balloon Fiesta park in Albuquerque in Bernalillo county;

58. fifty thousand dollars (\$50,000) to plan, design and construct Memorial plaza in the Barelás area of Albuquerque in Bernalillo county;

59. three hundred thousand dollars (\$300,000) to plan, design, construct and equip the Japanese garden and sasebo exhibit at the biological park in Albuquerque in Bernalillo county;

60. one hundred twenty thousand dollars (\$120,000) to plan, design and construct improvements to the playground at Burton park, including purchasing and installing playground equipment, in Albuquerque in Bernalillo county;

61. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and furnish a business incubator in east downtown Albuquerque in Bernalillo county;

62. fifty thousand dollars (\$50,000) to plan, design, construct and equip Casa Verde community park in Albuquerque in Bernalillo county;

63. forty thousand dollars (\$40,000) to furnish and equip a teen area at the Cherry Hills library in Albuquerque in Bernalillo county;

64. one hundred fifty thousand dollars (\$150,000) to acquire land for and plan, design and construct a multigenerational community center in city council district 8 in Albuquerque in Bernalillo county;

65. three hundred twenty-five thousand dollars (\$325,000) to renovate and equip a community arts center for persons with disabilities in the north valley of Albuquerque in Bernalillo county;

66. one hundred four thousand two hundred eighty-five dollars (\$104,285) to plan, design, construct and install a community-based public art project with the city's public art program in Albuquerque in Bernalillo county;

67. forty thousand dollars (\$40,000) to equip and furnish the computer clubhouse in Albuquerque in Bernalillo county;

68. twenty-five thousand dollars (\$25,000) to purchase and equip vehicles for use by the Keshet dance company in Albuquerque in Bernalillo county;

69. four hundred fifty thousand dollars (\$450,000) to purchase, plan, design and construct a facility for a dance academy and a ballet folklorico conservatory in Albuquerque in Bernalillo county;

70. thirty thousand dollars (\$30,000) to purchase equipment for community dental services for Los Griegos family and community services center in the north valley area of Albuquerque in Bernalillo county;

71. ten thousand dollars (\$10,000) to plan, design, construct and equip a dog park at Eubank and San Antonio in Albuquerque in Bernalillo county;

72. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, improve and equip a domestic violence coalition facility in Albuquerque in Bernalillo county;

73. seventy-five thousand dollars (\$75,000) to plan and design the downtown sector for the Albuquerque downtown neighborhood association in Albuquerque in Bernalillo county;

74. two hundred thousand dollars (\$200,000) to plan, design, construct, renovate, equip and furnish east Gateway park in Albuquerque in Bernalillo county;

75. sixty thousand dollars (\$60,000) to plan, design, construct, equip, furnish, purchase and install artificial turf for baseball and softball fields for the Eastdale little league in Albuquerque in Bernalillo county;

76. thirty-five thousand dollars (\$35,000) to plan, design, construct, equip and furnish improvements, including fencing, to the Eastdale little league field in Albuquerque in Bernalillo county;

77. forty thousand dollars (\$40,000) to plan, design, construct and equip upgrades, including a playground, to the Eastdale little league park in Albuquerque in Bernalillo county;

78. seventy-five thousand dollars (\$75,000) to renovate, plan, design, purchase and install playground equipment at El Rancho Atrisco park in Albuquerque in Bernalillo county;

79. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and furnish an addition to the building and to design, construct, purchase and install exhibits, furnishings and equipment for the Explora science center and children's museum in Albuquerque in Bernalillo county;

80. seven hundred thousand dollars (\$700,000) to acquire land for, plan, design, construct and equip an extreme sports park in the vicinity of Menaul boulevard and the interchange of interstates 25 and 40 in Albuquerque in Bernalillo county;

81. one hundred thirty-five thousand dollars (\$135,000) to plan, design, construct and equip a family advocacy center in Albuquerque in Bernalillo county;

82. one hundred thousand dollars (\$100,000) to purchase a tactical driving simulator for the Albuquerque fire department in Albuquerque in Bernalillo county;

83. ten thousand dollars (\$10,000) to purchase and equip wildland brush trucks for the Albuquerque fire department in Albuquerque in Bernalillo county;

84. twenty thousand dollars (\$20,000) for a public art project at fire station number five in Albuquerque in Bernalillo county;

85. one hundred thousand dollars (\$100,000) to purchase, plan, design, construct and equip a building for a food bank and storehouse in Albuquerque in Bernalillo county;

86. one hundred fifty-four thousand two hundred eighty-five dollars (\$154,285) to plan, design and construct a heroes park and memorial garden at Osuna and Wyoming in Albuquerque in Bernalillo county;

87. fifty thousand dollars (\$50,000) to design and construct renovations to the Highland pool in Albuquerque in Bernalillo county;

88. twenty-five thousand dollars (\$25,000) to purchase equipment and furniture for an art activities program serving the homeless in Albuquerque in Bernalillo county;

89. thirty thousand dollars (\$30,000) to purchase and equip vehicles for homeless programs in Albuquerque in Bernalillo county;

90. fifty thousand dollars (\$50,000) to plan, design, construct and equip the Albuquerque Indian center in Bernalillo county;

91. two hundred twenty thousand dollars (\$220,000) to purchase and install information technology, including related furnishings and equipment, for use by an international standards organization-certified provider specializing in employment of persons with disabilities in Albuquerque in Bernalillo county;

92. fifty thousand dollars (\$50,000) for playground equipment and upgrades at Jade park in Albuquerque in Bernalillo county;

93. twenty-five thousand dollars (\$25,000) to plan, design, construct, purchase and install playground equipment and information technology, including related equipment and furniture, at Jeanne Bellamah shelter community center in Albuquerque in Bernalillo county;

94. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements, including purchase and installation of equipment, at Jerry Cline park in Albuquerque in Bernalillo county;

95. five hundred twenty-five thousand dollars (\$525,000) to plan, design and construct improvements to the Jerry Cline recreation center, including purchasing and installing information technology, in Albuquerque in Bernalillo county;

96. one hundred twenty thousand dollars (\$120,000) to plan, design, construct and equip facilities for a daycare program, including playground equipment, information technology and security systems, at the John Marshall health and social service center in Albuquerque in Bernalillo county;

97. one hundred seventy-five thousand dollars (\$175,000) to plan, design and install improvements, including a new roof and carpeting, to the Juan Tabo branch library in Albuquerque in Bernalillo county;

98. eighty thousand dollars (\$80,000) to plan, design, construct, improve and equip a cyber academy for the juvenile justice program in Albuquerque in Bernalillo county;

99. one hundred fifty-six thousand two hundred eighty-five dollars (\$156,285) to plan, design, construct, equip and furnish a dance facility for use by the Keshet dance company in Albuquerque in Bernalillo county;

100. thirty-four thousand two hundred eighty-five dollars (\$34,285) to build a memorial to veterans of the Korean conflict at Veterans' memorial park in Albuquerque in Bernalillo county;

101. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip a cultural center in La Posada hotel in Albuquerque in Bernalillo county;

102. seventy-five thousand dollars (\$75,000) to purchase and install playground equipment at Lassetter park in Albuquerque in Bernalillo county;

103. two hundred eighty-five thousand dollars (\$285,000) to plan, design, construct and equip a secure radio-frequency telecommunications system for law enforcement in Albuquerque in Bernalillo county;

104. fifty-five thousand dollars (\$55,000) to purchase and install microfilm reader-printers and related furniture for the public library in Albuquerque in Bernalillo county;

105. thirty-five thousand dollars (\$35,000) to plan, design and construct a linear park in the Laurelwood neighborhood of Albuquerque in Bernalillo county;

106. fifty thousand dollars (\$50,000) to plan, design and construct a linear park on Tramway boulevard in Albuquerque in Bernalillo county;

107. ninety thousand dollars (\$90,000) to plan, design, renovate, construct and expand the Lobo little league fields and facilities in Albuquerque in Bernalillo county;

108. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements at Los Duranes park in Albuquerque in Bernalillo county;

109. one hundred thousand dollars (\$100,000) to plan, design, renovate, furnish and equip Los Griegos library, including landscaping and roof repair and replacement, in Albuquerque in Bernalillo county;

110. twenty thousand dollars (\$20,000) to design and construct improvements, including a shade structure, at Manzano Mesa park in Albuquerque in Bernalillo county;

111. five hundred thousand dollars (\$500,000) to plan, design and construct drainage and flood control improvements in Martineztown in Albuquerque in Bernalillo county;

112. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the Martineztown park, including a pedestrian crossing, in Albuquerque in Bernalillo county;

113. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct improvements to a walkway in the Martineztown area in Albuquerque in Bernalillo county;

114. twenty thousand dollars (\$20,000) for lighting at Mesa Verde park in Albuquerque in Bernalillo county;

115. fifty thousand dollars (\$50,000) to plan, design and construct interior and exterior improvements to the office building for the mid-region council of governments in Albuquerque in Bernalillo county;

116. sixty-five thousand dollars (\$65,000) to plan, design and construct improvements to Montgomery pool in Albuquerque in Bernalillo county;

117. three hundred seventy thousand dollars (\$370,000) to design and construct renovations and purchase equipment for the Albuquerque museum of art and history in Albuquerque in Bernalillo county;

118. three hundred sixty thousand dollars (\$360,000) to plan, design, construct and equip improvements, including roads, walkways and parking areas, at the national museum of nuclear science and history in Albuquerque in Bernalillo county;

119. four hundred ninety-two thousand dollars (\$492,000) to acquire, plan, design, expand, improve and equip the national institute of flamenco facility in Albuquerque in Bernalillo county;

120. four hundred fifteen thousand seven hundred eighty-five dollars (\$415,785) to purchase, plan, design, construct, equip and furnish a building for the New Mexico holocaust and intolerance museum in Albuquerque in Bernalillo county;

121. seventy thousand dollars (\$70,000) to plan for a business improvement district in the Nob Hill highland metropolitan redevelopment area in Albuquerque in Bernalillo county;

122. fifty thousand dollars (\$50,000) to plan, design and construct public infrastructure and street and streetscape improvements to the Central-Highland upper Nob Hill redevelopment area in Albuquerque in Bernalillo county;

123. four hundred fifty thousand dollars (\$450,000) to design and construct a community center and park at north Domingo Baca park in Albuquerque in Bernalillo county;

124. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements at off-leash dog parks in Albuquerque in Bernalillo county;

125. fifty thousand dollars (\$50,000) to purchase, plan, design, construct, repair and renovate a facility for use by the boys' and girls' club in the old town area of Albuquerque in Bernalillo county;

126. seventy-five thousand dollars (\$75,000) to renovate the opportunity center in Albuquerque in Bernalillo county;

127. two hundred thousand dollars (\$200,000) to renovate, including planning, design, purchase and installation of playground equipment, Pat Hurley lower park in Albuquerque in Bernalillo county;

128. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to Pat Hurley park, including hillside development and erosion control, in Albuquerque in Bernalillo county;

129. one hundred thousand dollars (\$100,000) to plan, design, expand and equip the peanut butter and jelly preschool facility in Albuquerque in Bernalillo county;

130. one hundred thousand dollars (\$100,000) to plan, design and construct a concession stand for Petroglyph little league in Albuquerque in Bernalillo county;

131. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the field, including purchase and installation of equipment and furniture, for the Petroglyph little league at Mariposa Basin park in Albuquerque in Bernalillo county;

132. one hundred thousand dollars (\$100,000) to purchase and install information technology, including related equipment and furniture, as part of the comprehensive information system project for the police department in Albuquerque in Bernalillo county;

133. seventy-nine thousand dollars (\$79,000) to purchase and install automated license plate readers for the Albuquerque police department in Albuquerque in Bernalillo county;

134. twenty thousand dollars (\$20,000) to purchase semi-automatic defibrillators for the Albuquerque police department in Bernalillo county;

135. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment and furniture, for the police and fire departments in Albuquerque in Bernalillo county;

136. one hundred fifty thousand dollars (\$150,000) to plan and design the Rio Grande Valley state park and adjacent public property at Central avenue northwest and southwest of the Rio Grande in Albuquerque in Bernalillo county;

137. four hundred sixty-five thousand dollars (\$465,000) to plan, design and construct infrastructure improvements to the facility and fields used by the Roadrunner little league, including improvements to comply with the requirements of the Americans with Disabilities Act of 1990, in Albuquerque in Bernalillo county;

138. three hundred twenty thousand dollars (\$320,000) to plan, design and construct improvements to the Sandia science and technology park in Albuquerque in Bernalillo county;

139. one million twenty-five thousand dollars (\$1,025,000) to plan, design, construct and equip improvements to Shooting Range park in Albuquerque in Bernalillo county;

140. one hundred sixty-four thousand two hundred eighty-five dollars (\$164,285) to design, construct, equip and furnish improvements to the Singing Arrow community center in Albuquerque in Bernalillo county;

141. ten thousand dollars (\$10,000) to plan, design and construct signage for the Singing Arrow neighborhood in Albuquerque in Bernalillo county;

142. one hundred sixty thousand dollars (\$160,000) to plan, design and construct improvements to Snowheights park in Albuquerque in Bernalillo county;

143. forty thousand dollars (\$40,000) to plan, design, construct and equip a support building for the Sunport swimming pool circulation system in Albuquerque in Bernalillo county;

144. fifty thousand dollars (\$50,000) to plan, design, purchase, install, expand and renovate playground equipment at Supper Rock park in Albuquerque in Bernalillo county;

145. one hundred twenty thousand dollars (\$120,000) to plan, design and construct a shade structure at Taylor Ranch library in Albuquerque in Bernalillo county;

146. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and renovate the Thunderbird little league fields and facilities in Albuquerque in Bernalillo county;

147. fifty thousand dollars (\$50,000) to plan, design, renovate and improve facilities, including landscaping, at USS Bullhead park in Albuquerque in Bernalillo county;

148. sixty-five thousand dollars (\$65,000) to plan, design, construct and equip a facility that includes a velodrome, performance training center and bicycle motocross track in Albuquerque in Bernalillo county;

149. one hundred seventy thousand dollars (\$170,000) to plan, design, construct and equip a regional park in the Ventana Ranch area of Albuquerque in Bernalillo county;

150. one hundred eighty-five thousand dollars (\$185,000) to plan, design and construct a building for the community redevelopment program in the west Central avenue area of Albuquerque in Bernalillo county;

151. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish improvements, including buildings, structures, exterior site improvements and signage, to the open space visitors' center on the west side of Albuquerque in Bernalillo county;

152. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a soccer field south of interstate 40 on the west side of Albuquerque in Bernalillo county;

153. ninety thousand dollars (\$90,000) to renovate, purchase and install equipment and furnishings for the Westgate library in Albuquerque in Bernalillo county;

154. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements to the Westgate little league field, including turf and concession stands, in Albuquerque in Bernalillo county;

155. four hundred thousand dollars (\$400,000) to plan, design, construct and renovate Tower park and Westgate little league fields in Albuquerque in Bernalillo county;

156. three hundred thousand dollars (\$300,000) to acquire land for, plan, design and construct a westside multipurpose center for use by an organization serving persons with developmental disabilities in Albuquerque in Bernalillo county;

157. fifty thousand dollars (\$50,000) to plan, design and construct renovations to the Wilson pool in Albuquerque in Bernalillo county;

158. fifty-five thousand dollars (\$55,000) to equip and furnish the workforce training program in Albuquerque in Bernalillo county;

159. sixty thousand dollars (\$60,000) to plan, design and construct benches, shade structures and a storage shed, including landscaping, for the Albuquerque rose garden at the Wyoming library in Albuquerque in Bernalillo county;

160. seventy-five thousand dollars (\$75,000) to purchase and install furnishings and equipment at the Wyoming library in Albuquerque in Bernalillo county;

161. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, renovate and modify the polar bear grotto and penguin facilities for the Albuquerque zoo in Albuquerque in Bernalillo county;

162. one hundred thousand dollars (\$100,000) to plan, design, construct and develop the Bachechi open space area at Alameda and Rio Grande boulevards in Bernalillo county;

163. ninety thousand dollars (\$90,000) to acquire land for, plan, design and construct a southwest mesa sports arena in Bernalillo county;

164. forty-three thousand six hundred dollars (\$43,600) to plan, design, construct, renovate and install streetscape improvements, including medians and landscaping, on Central avenue in city council district 9 in Albuquerque in Bernalillo county;

165. forty thousand dollars (\$40,000) to plan, design and construct a parking facility on the northwest and southwest corners of the Rio Grande and Central avenue in Albuquerque in Bernalillo county;

166. sixty-five thousand dollars (\$65,000) to purchase vans for the Cesar Chavez community center in Albuquerque in Bernalillo county;

167. twenty thousand dollars (\$20,000) for purchasing and renovating a building and purchasing and installing equipment for channel 27 and quote unquote organizations in Albuquerque in Bernalillo county;

168. forty thousand dollars (\$40,000) to purchase and install recreational equipment at the Dennis Chavez community center in Albuquerque in Bernalillo county;

169. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish, including information technology, an addition to the Erna Fergusson branch library in Albuquerque in Bernalillo county;

170. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements to and expansion of Grecian park in Albuquerque in Bernalillo county;

171. forty thousand dollars (\$40,000) to purchase and install recreational equipment at the Herman Sanchez community center in Albuquerque in Bernalillo county;

172. ten thousand dollars (\$10,000) to purchase and install educational technology, including related equipment and furniture, at Holy Ghost school in Albuquerque in Bernalillo county;

173. fifty thousand dollars (\$50,000) to plan, design and construct facilities for use by the Isshin Ryu program in Albuquerque in Bernalillo county;

174. forty thousand dollars (\$40,000) to purchase and install recreational equipment at the Jack Candelaria community center in Albuquerque in Bernalillo county;

175. one hundred thousand dollars (\$100,000) for fiber-optic cable from the Lambda rail to community centers and libraries in senate district 17 in Albuquerque in Bernalillo county;

176. forty thousand dollars (\$40,000) to purchase and install recreational equipment at the Loma Linda community center in Albuquerque in Bernalillo county;

177. one hundred thousand dollars (\$100,000) to plan, design and construct improvements at Manzano Mesa multigenerational center in Albuquerque in Bernalillo county;

178. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish improvements, including demolition, to the Mesa Verde community center in Albuquerque in Bernalillo county;

179. twenty thousand dollars (\$20,000) for signage at Mesa Verde community center in Albuquerque in Bernalillo county;

180. forty thousand dollars (\$40,000) for improvements to the Mile High little league fields in Albuquerque in Bernalillo county;

181. forty thousand dollars (\$40,000) to purchase and install recreational equipment at the Mountain View community center in Albuquerque in Bernalillo county;

182. five hundred thousand dollars (\$500,000) to plan, design and construct improvements to the New Mexico state fairgrounds for the national junior Arabian horse show in Albuquerque in Bernalillo county;

183. forty thousand dollars (\$40,000) to plan, design and construct a public art piece for the entrance of the New Mexico veterans' memorial on Louisiana boulevard in Albuquerque in Bernalillo county;

184. forty-five thousand dollars (\$45,000) to plan, design, renovate and equip a community arts center to serve persons with disabilities in the north valley area of Albuquerque in Bernalillo county;

185. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct improvements along the trail adjacent to the Griegos drain and other ditches in the north valley in Bernalillo county as part of the "ditches with trails" project;

186. forty thousand dollars (\$40,000) to repair and make improvements to the North Valley library, including roof replacement, in Albuquerque in Bernalillo county;

187. seventy-five thousand dollars (\$75,000) to purchase, install and renovate the children's playground at Novella park in Albuquerque in Bernalillo county;

188. ten thousand dollars (\$10,000) to purchase and install educational technology, including related equipment and furniture, at Our Lady's Assumption school in Albuquerque in Bernalillo county;

189. three hundred four thousand nine hundred eighty-five dollars (\$304,985) to plan, design, construct, equip and furnish the stage performing arts theater, including purchasing and installing electrical equipment and a heating, ventilation and air conditioning system, at the Paradise Hills community center in Bernalillo county;

190. fifteen thousand dollars (\$15,000) for a shade structure at Phil Chacon park in the Trumbull neighborhood in Albuquerque in Bernalillo county;

191. fifteen thousand dollars (\$15,000) to purchase and install soccer field lights in Phil Chacon park in the Trumbull neighborhood of Albuquerque in Bernalillo county;

192. three hundred twenty thousand dollars (\$320,000) to plan, design, construct, equip and furnish an insectarium and insect laboratory at the Rio Grande botanical gardens in Albuquerque in Bernalillo county;

193. ten thousand dollars (\$10,000) to plan, design, construct, equip and furnish improvements to Sandia Vista park in Albuquerque in Bernalillo county;

194. ten thousand dollars (\$10,000) to plan, design and construct renovations to the media arts classrooms in the Sawmill neighborhood of Albuquerque in Bernalillo county;

195. one hundred seventy-five thousand dollars (\$175,000) for restoration, landscaping and streetscape improvements in the Silver Hill neighborhood in Albuquerque in Bernalillo county;

196. fifty thousand dollars (\$50,000) to purchase and install equipment and to purchase books for use by the southwest women's law center in Albuquerque in Bernalillo county;

197. forty thousand dollars (\$40,000) to purchase and install recreational equipment at the Thomas Bell community center in Albuquerque in Bernalillo county;

198. two hundred thousand dollars (\$200,000) to make improvements at Tower community park in Albuquerque in Bernalillo county;

199. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements to fields and facilities, including installing astroturf, at the West Mesa little league field in Albuquerque in Bernalillo county;

200. forty thousand dollars (\$40,000) to plan, design and construct improvements, including restrooms, bleachers, a parking lot and upgrades to comply

with the Americans with Disabilities Act of 1990, at the Zia little league field in Albuquerque in Bernalillo county;

201. five hundred thousand dollars (\$500,000) to plan, design and construct a fire station in Los Ranchos de Albuquerque in Bernalillo county;

202. two million nine hundred twenty-five thousand dollars (\$2,925,000) to purchase land for open space ~~near Anderson fields~~ in Los Ranchos de Albuquerque in Bernalillo county;

203. six hundred five thousand dollars (\$605,000) to purchase, plan, design, construct, equip and furnish an educational center at the Unser racing museum and children's discovery center in Los Ranchos de

;Albuquerque in Bernalillo county;

204. fifty thousand dollars (\$50,000) to purchase and install carpeting for the east mountain library in Tijeras in Bernalillo county;

205. forty thousand dollars (\$40,000) to expand the east mountain library, including purchasing and installing shelving, furniture, a CD listening station and related equipment, in Tijeras in Bernalillo county;

206. twenty-five thousand dollars (\$25,000) to plan, design and construct a veterans' memorial in Tijeras in Bernalillo county;

207. one hundred fifty thousand dollars (\$150,000) to purchase ambulances for Catron county;

208. one hundred fifty thousand dollars (\$150,000) to construct an emergency management facility at the county fairgrounds in Catron county;

209. one hundred thousand dollars (\$100,000) to plan, design and construct renovations and additions to the sheriff's department in Catron county;

210. fifty thousand dollars (\$50,000) to purchase vehicles to transport families to medical and dental appointments in Catron county;

211. five hundred thousand dollars (\$500,000) to purchase conservation easements in the Quemado basin for art installation preservation in Catron county;

212. fifty thousand dollars (\$50,000) to plan, design and construct renovations to the county-owned head start center in Reserve in Catron county;

213. ten thousand dollars (\$10,000) to purchase extrication and rescue equipment for Reserve in Catron county;

214. twenty-five thousand dollars (\$25,000) to plan, design, construct, furnish and equip a museum in the courthouse in Chaves county;

215. one hundred seventy-nine thousand two hundred eighty-five dollars (\$179,285) to purchase and install a jail management system at the county detention center in Chaves county;

216. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip, furnish and improve the Los Pasitos facility in Chaves county;

217. eighty thousand dollars (\$80,000) to plan, design, construct, equip and furnish a fire station building for the Midway volunteer fire department in Chaves county;

218. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including a water well and storage tank, to facilities for the Penasco fire department in Chaves county;

219. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and install a garage for emergency response vehicles for the sheriff's department in Chaves county;

220. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip, furnish and improve the Tobosa administrative offices and training facility in Chaves county;

221. forty-five thousand dollars (\$45,000) to purchase and equip handicapped-accessible vans for the Tobosa program in Chaves county;

222. fifty thousand dollars (\$50,000) to plan, design and construct improvements and expansions, including a water well and water lines, for the Dunken volunteer fire department in Chaves county;

223. two hundred fifty thousand dollars (\$250,000) to purchase, plan, design, construct, renovate, equip and furnish a building for the Roswell refuge in Chaves county;

224. fifty thousand dollars (\$50,000) to plan, design and construct, including infrastructure, an industrial park in Hagerman in Chaves county;

225. two hundred eighty-five thousand dollars (\$285,000) to plan, design, construct and equip renovations to the town hall in Hagerman in Chaves county;

226. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the parks in Lake Arthur in Chaves county;

227. twenty-five thousand dollars (\$25,000) to plan and design renovations, including landscaping, to the Chaves county community center in Roswell in Chaves county;

228. thirty-five thousand dollars (\$35,000) to plan, design, construct and equip, including a lighted skating area, the Alice Reischman Smith park in Roswell in Chaves county;

229. two hundred forty-five thousand dollars (\$245,000) to plan and design the Alien Apex resort theme park in Roswell in Chaves county;

230. fifty thousand dollars (\$50,000) to purchase, construct and install a storage building for the hike it and spike it program at the Cielo Grande recreation complex in Roswell in Chaves county;

231. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a firefighter training facility, including paving, drainage, landscaping, curbs and gutters and burn props, in Roswell in Chaves county;

232. seventy-five thousand dollars (\$75,000) to purchase portable bleachers and equipment for the hike it and spike it program in Roswell in Chaves county;

233. two hundred thirty thousand dollars (\$230,000) to plan, design, construct, equip and furnish the Joe Bauman baseball facility in Roswell in Chaves county;

234. thirty thousand dollars (\$30,000) to plan, design and construct a senior field at the Noon Optimist baseball complex in Roswell in Chaves county;

235. twenty-five thousand dollars (\$25,000) to purchase and equip vehicles for the parks and recreation department in Roswell in Chaves county;

236. twenty-five thousand dollars (\$25,000) to purchase equipment for field maintenance in Roswell in Chaves county;

237. one hundred thirty-five thousand dollars (\$135,000) to expand the parks and recreation offices and construct deck improvements at the swimming pool in Roswell in Chaves county;

238. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and improve the skate park in Roswell in Chaves county;

239. fifty thousand dollars (\$50,000) to plan, design and construct renovations and additions to the district attorney's office in the thirteenth judicial district in Grants in Cibola county;

240. fifty thousand dollars (\$50,000) to construct, equip and furnish a fire station for the Candy Kitchen fire department in Cibola county;

241. fifty thousand dollars (\$50,000) to plan, design and construct renovations to the courthouse in Cibola county;

242. three hundred thousand dollars (\$300,000) to plan, design, renovate and expand a facility, including the addition of storage facilities, in Cibola county;

243. forty thousand dollars (\$40,000) to renovate and equip a gymnasium, including exterior site improvements, in Cibola county;

244. five hundred thousand dollars (\$500,000) to plan, design, construct, improve and equip the Cibola county hospital in Cibola county;

245. three hundred fifty-eight thousand six hundred ninety-seven dollars (\$358,697) to plan, design and construct an expansion to the county hospital facility in Cibola county;

246. one hundred fifty thousand dollars (\$150,000) to purchase and equip road maintenance equipment for Cibola county;

247. one hundred fifty thousand dollars (\$150,000) to purchase vehicles and equipment for the county sheriff's and jail departments in Cibola county;

248. fifty thousand dollars (\$50,000) to purchase and equip vehicles for the sheriff's department in Cibola county;

249. ninety-five thousand dollars (\$95,000) to plan, design, construct, equip and furnish a fire department, including site improvements, in Cubero in Cibola county;

250. one hundred sixty thousand dollars (\$160,000) to plan, design and construct an animal shelter in Grants in Cibola county;

251. seventy-five thousand dollars (\$75,000) to plan, design and construct renovations, including a new roof, to the municipal golf course clubhouse in Grants in Cibola county;

252. two hundred thousand dollars (\$200,000) to purchase earth-moving equipment for Grants in Cibola county;

253. eighty thousand dollars (\$80,000) to plan, design and construct interior and exterior renovations, including improvements to parking facilities, to the Cibola arts building in Grants in Cibola county;

254. fifty thousand dollars (\$50,000) to purchase equipment, furniture and vehicles for the city-county dispatch center in Grants in Cibola county;
255. two hundred thousand dollars (\$200,000) to construct, equip and furnish the multipurpose center in Milan in Cibola county;
256. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements to the courthouse in Colfax county;
257. one hundred fifty thousand dollars (\$150,000) to renovate the detention center in Colfax county;
258. four thousand two hundred eighty-five dollars (\$4,285) to plan, design and construct improvements and additions, including a roof for the large grandstand, to the rodeo arena in Colfax county;
259. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, renovate and improve the Plaza del Sol in Angel Fire in Colfax county;
260. ninety thousand dollars (\$90,000) to purchase and equip road maintenance vehicles in Eagle Nest in Colfax county;
261. thirty thousand dollars (\$30,000) to plan, design, construct, equip and furnish a baseball park in Maxwell in Colfax county;
262. fifty thousand dollars (\$50,000) to plan, design and construct upgrades and improvements to the effluent irrigation system and park in Raton in Colfax county;
263. three hundred thousand dollars (\$300,000) to improve the Legion park field complex, including upgrading an effluent irrigation system and purchasing and installing sod, in Raton in Colfax county;
264. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and furnish a regional emergency dispatch and operations center in Raton in Colfax county;
265. five thousand dollars (\$5,000) to plan, design and construct a war memorial in Raton in Colfax county;
266. fifty thousand dollars (\$50,000) to make improvements to the animal barns and stalls at the Curry county fairgrounds;
267. two hundred thousand dollars (\$200,000) to improve the fairgrounds, including roof and drainage construction, in Curry county;

268. sixty thousand dollars (\$60,000) to purchase and install emergency telecommunications and technology equipment for the sheriff's department in Curry county;

269. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, equip and furnish a special events center in Curry county;

270. sixty-three thousand six hundred ninety-seven dollars (\$63,697) to acquire an office unit and to plan, design, construct, equip and furnish a food bank, including renovation of the office unit, site renovation and purchasing and installing related equipment, in Clovis in Curry county;

271. fifty thousand dollars (\$50,000) to purchase, plan, design, renovate, equip and furnish the Mainstreet mercantile building in Clovis in Curry county;

272. fifty thousand dollars (\$50,000) to acquire land and buildings, make improvements and plan, design, construct, equip and furnish the Norman Petty studios and museum in Clovis in Curry county;

273. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and furnish recreational facilities in Clovis in Curry county;

274. one hundred thousand dollars (\$100,000) to purchase and equip ambulances for Grady in Curry county;

275. one hundred thousand dollars (\$100,000) to purchase and equip a fire truck for the fire department in Grady in Curry county;

276. fifty thousand dollars (\$50,000) to purchase and install equipment, fixtures and furnishings for the daycare facility in De Baca county;

277. two hundred thousand dollars (\$200,000) to purchase and install playground equipment in De Baca county;

278. one hundred thousand dollars (\$100,000) to purchase road maintenance equipment for De Baca county;

279. one hundred thousand dollars (\$100,000) to construct improvements, including roof repairs, to the fire station and purchase and equip an ambulance in Fort Sumner in De Baca county;

280. twenty-five thousand dollars (\$25,000) to purchase and equip vehicles for the police department in Fort Sumner in De Baca county;

281. two hundred thousand dollars (\$200,000) to purchase street maintenance equipment for Fort Sumner in De Baca county;

282. ninety-nine thousand dollars (\$99,000) to renovate the third judicial district court building in Dona Ana county;

283. sixty-two thousand five hundred dollars (\$62,500) to purchase and install six transport modules for the animal control unit of the sheriff's department in Dona Ana county;

284. one hundred thirty-seven thousand five hundred dollars (\$137,500) to purchase and equip an animal rescue vehicle, including disaster response equipment, for the animal control unit of the sheriff's department in Dona Ana county;

285. one hundred thousand dollars (\$100,000) to plan, design and construct a crisis triage center for behavioral health services in Dona Ana county;

286. forty-one thousand nine hundred dollars (\$41,900) to plan, design and construct a crisis service center in Dona Ana county;

287. two thousand dollars (\$2,000) to purchase and install electronic records systems and related technology in dental centers in Dona Ana county;

288. thirty thousand dollars (\$30,000) to purchase and equip a communications trailer for emergency search and rescue services in Dona Ana county;

289. twenty-five thousand dollars (\$25,000) for a master plan to determine land use and infrastructure projects and identify areas of development and preservation in Dona Ana county;

290. one hundred fifty-five thousand dollars (\$155,000) to purchase and equip mosquito control vehicles, including sprayers and foggers, in Dona Ana county;

291. two thousand dollars (\$2,000) to purchase equipment for and design and construct improvements to parks in Dona Ana county;

292. fifty-five thousand dollars (\$55,000) to plan, design, construct, equip, purchase and install improvements to the sheriff's department firearms range facility in Dona Ana county;

293. twenty-five thousand dollars (\$25,000) to purchase and install video cameras in the sheriff's department vehicles in Dona Ana county;

294. forty-five thousand dollars (\$45,000) to purchase and install surveillance equipment for the sheriff's department in Dona Ana county;

295. one hundred thousand dollars (\$100,000) to purchase and install information technology, including related equipment, for the treasurer's, purchasing and information systems departments in Dona Ana county;

296. fifty thousand dollars (\$50,000) to plan, design, renovate and equip the women's intercultural center, including exterior site improvements, in Dona Ana county;

297. three hundred sixty-two thousand dollars (\$362,000) to purchase, plan, design, construct, equip and furnish a transitional living facility for youth in Dona Ana county;

298. one hundred thirty thousand dollars (\$130,000) to landscape and improve the walkway path on New Mexico highways 478 and 460 for the Anthony water and sanitation district in Dona Ana county;

299. two hundred thousand dollars (\$200,000) to purchase and equip a pumper truck for the South Valley fire district in Dona Ana county;

300. two hundred thousand dollars (\$200,000) to plan, design, purchase and install improvements, including grandstands, electrical improvements and a sound system, to the multipurpose building at the southern New Mexico state fair and rodeo in Dona Ana county;

301. fifty-four thousand two hundred eighty-five dollars (\$54,285) to plan, design and construct signage, including flagpoles, for the southern New Mexico state fair and rodeo in Dona Ana county;

302. eighty-one thousand nine hundred dollars (\$81,900) to plan, design and construct improvements, including improvements to comply with the requirements of the Americans with Disabilities Act of 1990, to the Adams ballpark in Anthony in Dona Ana county;

303. twenty thousand dollars (\$20,000) to acquire land for and plan, design and construct a park and trail, including purchase and installation of equipment, in Anthony in Dona Ana county;

304. twenty thousand dollars (\$20,000) to plan, design and construct improvements, including roof repair and purchase and installation of a heating, ventilation and air conditioning system, to the south valley complex in Anthony in Dona Ana county;

305. fifty thousand dollars (\$50,000) to plan, design, construct, furnish and equip interior and exterior site and facility improvements, including road access and parking lot improvements, to a building in Chamberino in Dona Ana county;

306. forty-one thousand nine hundred dollars (\$41,900) to plan, design, construct, equip and furnish the Chamberino community center in Dona Ana county;

307. one hundred fifteen thousand dollars (\$115,000) to plan, design and construct playground improvements, including purchase and installation of related equipment, for Colquitt park in Chaparral in Dona Ana county;

308. one hundred thirty thousand dollars (\$130,000) to plan, design and construct playground improvements, including purchase and installation of related equipment, for Dolores Wright park in Chaparral in Dona Ana county;

309. fifty thousand dollars (\$50,000) to acquire land for, plan, design and construct the Chaparral master drainage project, including channels, ponds and berms, in Chaparral in Dona Ana county;

310. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to the recreational park in Dona Ana in Dona Ana county;

311. two hundred thousand dollars (\$200,000) to plan, design, construct and equip a veterans' park, including paving, sidewalks and curbs, in Dona Ana village in Dona Ana county;

312. ninety-three thousand six hundred ninety-seven dollars (\$93,697) to plan, design and construct, including paving, a parking lot at the Ben Archer health center facility in Hatch in Dona Ana county;

313. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the industrial park in Hatch in Dona Ana county;

314. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements to water and wastewater systems and streets in Hatch in Dona Ana county;

315. two hundred thousand dollars (\$200,000) to plan, design, construct and equip improvements to the community center in La Mesa in Dona Ana county;

316. one hundred sixteen thousand nine hundred dollars (\$116,900) to plan, design, construct, equip and furnish, including sidewalks, driveway, road access and parking lot, a multipurpose center in La Mesa in Dona Ana county;

317. twenty-five thousand dollars (\$25,000) to purchase and install playground equipment in the park in La Mesa in Dona Ana county;

318. one hundred forty-one thousand nine hundred dollars (\$141,900) to plan, design and construct a new facility for the third judicial district court in Dona Ana county;

319. ninety thousand dollars (\$90,000) to purchase and equip a fire suppression vehicle for the Anthony fire station in Las Cruces in Dona Ana county;

320. fifty thousand dollars (\$50,000) to plan, design and construct a multipurpose facility for the East Mesa

multigenerational center in the East Mesa area of Las Cruces in Dona Ana county;

321. fifty thousand dollars (\$50,000) to construct, equip and furnish an alternative recreation facility, including a dog drinking fountain, in Las Cruces in Dona Ana county;

322. sixty-two thousand nine hundred dollars (\$62,900) to plan, design and renovate the Amador hotel for city use in Las Cruces in Dona Ana county;

323. four thousand two hundred eighty-five dollars (\$4,285) to plan, design, purchase, construct and install art panels in downtown Las Cruces in Dona Ana county;

324. five hundred fifty thousand dollars (\$550,000) to plan, design, construct and equip an expansion to the Branigan library in Las Cruces in Dona Ana county;

325. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to Burn lake in Las Cruces in Dona Ana county;

326. twenty thousand dollars (\$20,000) to plan, design and construct a community garden in Las Cruces in Dona Ana county;

327. one hundred thousand dollars (\$100,000) to acquire land for, plan, design and construct a convention center in Las Cruces in Dona Ana county;

328. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish a dog park in Las Cruces in Dona Ana county;

329. fifteen thousand dollars (\$15,000) to plan, design, construct, equip, renovate and expand the domestic violence shelter in Las Cruces in Dona Ana county;

330. eighty-five thousand nine hundred dollars (\$85,900) to plan, design and construct improvements to High Noon soccer fields in Las Cruces in Dona Ana county;

331. two hundred sixteen thousand six hundred ninety-seven dollars (\$216,697) to plan, design and renovate an apartment complex, to construct new units to comply with the requirements of the Americans with Disabilities Act of 1990 and to construct meeting rooms and offices, all for use by homeless veterans, for the housing authority in Las Cruces in Dona Ana county;

332. four hundred seventy-seven thousand dollars (\$477,000) to plan, design, construct, equip and furnish renovations and additions to the shelter and transitional housing for La Casa in Las Cruces in Dona Ana county;

333. forty-one thousand nine hundred dollars (\$41,900) to purchase, remodel and equip a building for La Pinon center for sexual assault in Las Cruces in Dona Ana county;

334. three hundred twenty-nine thousand dollars (\$329,000) to plan and design an addition to the Mesilla Valley hospice facility for providing care to the sick and indigent in Las Cruces in Dona Ana county;

335. four hundred thirty-seven thousand one hundred eighty-five dollars (\$437,185) to purchase and install equipment for use by the Mesilla Valley hospice facility in providing care to the sick and indigent in Las Cruces in Dona Ana county;

336. three hundred seventy thousand dollars (\$370,000) to plan, design and construct improvements, including streetscape enhancements, bus shelters, landscaping and pedestrian connection corridors, in the Mesquite historic district of Las Cruces in Dona Ana county;

337. thirty thousand dollars (\$30,000) to design, purchase and install security systems and exterior signage at the museum of natural history in Las Cruces in Dona Ana county;

338. one hundred thousand dollars (\$100,000) to plan, design and construct exhibit space for the Paleozoic trackway, including relocation, to the museum of natural history in Las Cruces in Dona Ana county;

339. thirty thousand dollars (\$30,000) to purchase boxing equipment for the police athletic league in Las Cruces in Dona Ana county;

340. two hundred thirty thousand dollars (\$230,000) to purchase tasers, camera equipment and firearm training equipment for the police department in Las Cruces in Dona Ana county;

341. eighty thousand dollars (\$80,000) to purchase and equip a fire suppression vehicle for the Talavera fire station in Las Cruces in Dona Ana county;

342. one hundred thirty-six thousand dollars (\$136,000) to plan, design and construct phase 2 of the veterans' memorial wall in Las Cruces in Dona Ana county;

343. two hundred thousand dollars (\$200,000) to plan, design, construct and equip improvements, including paving, to the Mesilla Valley community of hope in Las Cruces in Dona Ana county;

344. twenty thousand dollars (\$20,000) to plan, design, construct and equip a playground at Talavera community park in Las Cruces in Dona Ana county;

345. ten thousand dollars (\$10,000) to plan, design and construct a public art piece for the city hall in Mesilla in Dona Ana county;

346. sixty thousand dollars (\$60,000) to acquire land for, plan, design, construct and equip a public safety building to house the marshal's office and the fire department in Mesilla in Dona Ana county;

347. sixty-five thousand dollars (\$65,000) to purchase and equip a pumper tanker vehicle for the Mesquite fire department in Dona Ana county;

348. twenty thousand dollars (\$20,000) to purchase and install information technology, including related equipment and furniture, at the resource center in Mesquite in Dona Ana county;

349. three thousand dollars (\$3,000) to landscape, including purchasing and planting trees, outside the Helena property in Mesquite in Dona Ana county;

350. one hundred twenty-five thousand dollars (\$125,000) to demolish an existing building and plan, design, purchase and install a portable in Organ in Dona Ana county;

351. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to Radium Springs recreational park in Radium Springs in Dona Ana county;

352. one hundred ninety-one thousand nine hundred dollars (\$191,900) to plan, design, construct and equip a multipurpose sports complex, including a building and swimming pool, in San Miguel in Dona Ana county;

353. twenty thousand dollars (\$20,000) to plan, design and construct a community park in Santa Teresa in Dona Ana county;

354. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements to a safety inspection facility in Santa Teresa in Dona Ana county;

355. seventy thousand dollars (\$70,000) to purchase and install information technology, including related equipment and furniture, for Sunland Park in Dona Ana county;

356. one hundred thousand dollars (\$100,000) to acquire land for, plan, design and construct a municipal complex in Sunland Park in Dona Ana county;

357. two hundred seventy thousand dollars (\$270,000) to plan, design, construct and equip a sports complex in Sunland Park in Dona Ana county;

358. fifty thousand dollars (\$50,000) to plan, design and construct health offices at the Artesia general hospital campus and renovations to the Carlsbad health offices in Eddy county;

359. fifty thousand dollars (\$50,000) to purchase and install bleachers that comply with the Americans with Disabilities Act of 1990 in the Artesia horse council arena in Eddy county;

360. forty thousand dollars (\$40,000) to plan, design and construct the north Eddy county public safety facility in Artesia in Eddy county;

361. fifty thousand dollars (\$50,000) to equip and furnish the consolidated dispatch and emergency operations center at the federal law enforcement training center in Eddy county;

362. fifty thousand dollars (\$50,000) to plan, design and construct a shooting range in north Eddy county;

363. one hundred thousand dollars (\$100,000) to plan, design, construct, improve and renovate a domestic violence shelter in Artesia in Eddy county;

364. three hundred twenty-five thousand dollars (\$325,000) to plan, design and renovate hospital rooms in the geriatric and psychology center at Artesia general hospital in Artesia in Eddy county;

365. two hundred thousand dollars (\$200,000) to purchase and install ultrasound diagnostic imaging systems at Artesia general hospital in Artesia in Eddy county;

366. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, improve, equip and landscape a public safety complex in Artesia in Eddy county;

367. seventy-five thousand dollars (\$75,000) to plan, design and construct an expansion to the digital media center, including purchasing and installing equipment and a mobile unit, for the Artesia vocational training center in Artesia in Eddy county;

368. one hundred thousand dollars (\$100,000) to plan, design and construct improvements, including interior and exterior improvements, to the Carlsbad animal shelter, in Carlsbad in Eddy county;

369. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate and equip a domestic violence shelter in Carlsbad in Eddy county;

370. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and equip a drug rehabilitation facility in Carlsbad in Eddy county;

371. ninety thousand dollars (\$90,000) to plan, design, purchase and install electronic digital signs in Carlsbad in Eddy county;

372. ten thousand dollars (\$10,000) to purchase and install flotation devices for Carlsbad in Eddy county;

373. one hundred thousand dollars (\$100,000) to plan, design, construct and install a bronze sculpture of Jim White in Carlsbad in Eddy county;

374. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including roofing and flooring improvements, to the adult literacy building in Carlsbad in Eddy county;

375. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish improvements to the public library in Carlsbad in Eddy county;

376. one hundred fifty thousand dollars (\$150,000) to purchase, plan and design improvements at Sunset Gardens cemetery in Carlsbad in Eddy county;

377. four hundred twenty-five thousand dollars (\$425,000) to plan, design and construct improvements to the youth sports complex and facilities, including purchase and installation of additional facilities, in Carlsbad in Eddy county;

378. fifty thousand dollars (\$50,000) to plan, design and renovate the Lake Carlsbad beach house, including interior and exterior improvements, in Carlsbad in Eddy county;

379. one hundred twenty-one thousand nine hundred eighty-two dollars (\$121,982) to renovate the Pecos River village conference center at Lake Carlsbad in Carlsbad in Eddy county;

380. twenty-five thousand dollars (\$25,000) to purchase and equip a backhoe for Hope in Eddy county;

381. twenty-five thousand dollars (\$25,000) to purchase and equip a tractor for Hope in Eddy county;

382. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a fire substation in Loving in Eddy county;

383. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct a sports complex in Loving in Eddy county;

384. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a building to house a fire truck and to renovate the terminal building at the airport in Grant county;

385. one hundred thousand dollars (\$100,000) to acquire property for and plan, design, construct, equip and furnish a boys' and girls' club in Grant county;

386. one hundred seventy-five thousand dollars (\$175,000) to equip and furnish the Grant county regional dispatch authority, including information technology, in Grant county;

387. fifty thousand dollars (\$50,000) to acquire land for, plan, design, construct, equip and furnish a multipurpose facility for the Hachita mutual domestic water consumers association in Grant county;

388. one hundred ten thousand dollars (\$110,000) to purchase vehicles for the police department and fire department in Santa Clara in Grant county;

389. sixteen thousand dollars (\$16,000) to purchase and equip a fire truck for Tyrone and Hatchita in Grant county;

390. one hundred thousand dollars (\$100,000) to plan, design and construct a cemetery in Bayard in Grant county;

391. seventy-five thousand dollars (\$75,000) to plan, design, construct and equip improvements, including installation of turf, to the little league field in Bayard in Grant county;

392. one hundred thousand dollars (\$100,000) to acquire land for, plan, design and construct the public library in Bayard in Grant county;

393. thirty thousand dollars (\$30,000) to plan, design and construct improvements, including related equipment, to the public safety radio tower in Bayard in Grant county;

394. two hundred fifty thousand dollars (\$250,000) to equip, plan, design and construct improvements to the fairgrounds in Cliff in Grant county;

395. one hundred thousand dollars (\$100,000) to plan, design and construct renovations and improvements to the Gila library in Gila in Grant county;

396. seventy-five thousand dollars (\$75,000) to purchase and equip vehicles for the police department in Hurley in Grant county;

397. four hundred thousand dollars (\$400,000) to plan, design, construct and equip Bataan memorial park, including lighting and artificial turf for baseball and multiple-use fields, in Grant county;

398. fifty thousand dollars (\$50,000) to purchase and equip a rescue vehicle for the Santa Clara fire department in Santa Clara in Grant county;

399. one hundred fifty thousand dollars (\$150,000) to plan, design and construct an emergency medical services facility at Gila regional medical center in Silver City in Grant county;

400. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including parking lot paving and sidewalks, at the Gila regional medical center in Silver City in Grant county;

401. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip Bataan memorial park, including a memorial and gazebo, in Grant county;

402. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to the judicial complex at the historic Grant county courthouse, including related equipment, in Silver City in Grant county;

403. seventy-five thousand dollars (\$75,000) to plan, design, construct, renovate, equip and furnish improvements, including roof repairs, to the office at the regional dispatch authority in Silver City in Grant county;

404. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct and equip a civic center in Silver City in Grant county;

405. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish improvements, including lighting, to the community park in Silver City in Grant county;

406. one hundred thousand dollars (\$100,000) to acquire land for, plan, design, construct and equip the Memory Lane cemetery in Silver City in Grant county;

407. twenty-five thousand dollars (\$25,000) to plan, design, purchase and install improvements, including a radio transmitter, to the emergency alert system in Guadalupe county;

408. one hundred thousand dollars (\$100,000) to purchase fire equipment and apparatus for Guadalupe county;

409. seventy-five thousand dollars (\$75,000) to purchase and equip vehicles for the Guadalupe county sheriff's department;

410. eighty thousand dollars (\$80,000) to purchase a vehicle and equipment for the fire department in Puerto de Luna in Guadalupe county;

411. seventy-five thousand dollars (\$75,000) to plan, design and construct a public safety building in Anton Chico in Guadalupe county;

412. one hundred fifty thousand dollars (\$150,000) to plan, design and construct renovations to the historic courthouse building in Santa Rosa in Guadalupe county;

413. four hundred thousand dollars (\$400,000) to purchase Los Amigos nursing home in Santa Rosa in Guadalupe county;

414. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to Park lake in Santa Rosa in Guadalupe county;

415. one hundred sixty-five thousand dollars (\$165,000) to purchase a backhoe for Vaughn and to purchase road equipment, including a loader, graders, semi-truck and belly dumps, for Guadalupe county;

416. fourteen thousand two hundred eighty-five dollars (\$14,285) to plan, design and renovate an administration building to comply with the requirements of the Americans with Disabilities Act of 1990 in Vaughn in Guadalupe county;

417. three hundred thousand dollars (\$300,000) to plan, design, construct and equip a playground and bathrooms in Vaughn in Guadalupe county;

418. one hundred fifty thousand dollars (\$150,000) to purchase and equip an ambulance for Harding county;

419. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip, furnish and install renovations and additions to the fire station and village hall in Mosquero in Harding county;

420. five hundred thousand dollars (\$500,000) to plan, design, construct, renovate and equip the Animas community center, including improvements to comply with the requirements of the Americans with Disabilities Act of 1990, in Hidalgo county;

421. three hundred thousand dollars (\$300,000) to plan, design, construct and improve the emergency management building in Hidalgo county;

422. three hundred thousand dollars (\$300,000) to plan, design, construct, equip and furnish a city hall facility in Lordsburg in Hidalgo county;

423. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to utility lines in Lordsburg in Hidalgo county;

424. ninety-two thousand two hundred eighty-five dollars (\$92,285) to plan, design, construct, equip and furnish a vocational career center in Lordsburg in Hidalgo county;

425. three hundred thousand dollars (\$300,000) to improve the Lea county event center, including replacing the roof and purchasing and installing an air conditioning system, in Lea county;

426. two hundred thousand dollars (\$200,000) to plan, design and construct beautification improvements to the downtown area in Eunice in Lea county;

427. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the fire station, including constructing an addition to house ambulances and equipment, in Eunice in Lea county;

428. fifty thousand dollars (\$50,000) to plan and design a boys' and girls' club in Hobbs in Lea county;

429. one hundred twenty-five thousand dollars (\$125,000) to purchase and equip an aerial ladder fire truck in Hobbs in Lea county;

430. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, equip and furnish a fire department substation in Jal in Lea county;

431. thirty thousand dollars (\$30,000) to plan, design and construct improvements, including purchase and installation of related equipment, to Jal Lake park and facilities in Jal in Lea county;

432. three hundred twenty thousand dollars (\$320,000) to purchase a fire truck for Lovington in Lea county;

433. one hundred thousand dollars (\$100,000) to plan, design and construct restorations and improvements to the Lister building in Lovington in Lea county;

434. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct and equip a regional physical education facility in Lovington in Lea county;

435. two hundred sixty thousand dollars (\$260,000) for parking lot improvements and equipment and furnishings for the Nor-Lea general hospital and clinic in Lovington in Lea county;

436. five hundred nine thousand two hundred eighty-five dollars (\$509,285) to plan, design and construct a multipurpose center in Tatum in Lea county;

437. twenty-five thousand dollars (\$25,000) to purchase and equip police cars for Tatum in Lea county;

438. thirty thousand dollars (\$30,000) to purchase and equip a multipurpose tanker and pumper fire truck for the Arabela fire department in Lincoln county;

439. one hundred thirty-five thousand dollars (\$135,000) to plan, design, construct, furnish and equip improvements and additions to the domestic violence shelter in Lincoln county;

440. forty thousand dollars (\$40,000) to purchase and equip a vehicle for the domestic violence shelter in Lincoln county;

441. one million dollars (\$1,000,000) to plan, design, construct and equip an equestrian facility in Lincoln county;

442. twenty-five thousand dollars (\$25,000) to purchase safety and emergency equipment for the sheriff's department in Lincoln county;

443. twenty-five thousand dollars (\$25,000) to purchase equipment for the Nogal volunteer fire department in Lincoln county;

444. fifty thousand dollars (\$50,000) to plan, design and construct a baseball field and recreational facility in Capitan in Lincoln county;

445. one hundred thirty thousand dollars (\$130,000) to purchase equipment for public works projects in Capitan in Lincoln county;

446. ninety thousand dollars (\$90,000) to landscape and to construct, purchase and install playground equipment at the park in Carrizozo in Lincoln county;

447. two hundred fifty thousand dollars (\$250,000) to renovate the village hall in Corona in Lincoln county;

448. thirty-five thousand dollars (\$35,000) to plan, design, construct and equip a fire station for Glencoe Palo Verde in Lincoln county;

449. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish improvements to the athletic fields in Ruidoso in Lincoln county;

450. one hundred thousand dollars (\$100,000) to plan, design, construct and renovate a domestic violence shelter in Ruidoso in Lincoln county;

451. two hundred twenty-five thousand dollars (\$225,000) to purchase and equip vehicles for the police department in Ruidoso in Lincoln county;

452. two hundred forty-three thousand dollars (\$243,000) to plan, design, construct and renovate the communications and dispatch center in Luna county;

453. four hundred thousand dollars (\$400,000) to plan, design, construct, renovate, equip and furnish the joint city and county public safety building in Luna county;

454. sixty-seven thousand seven hundred dollars (\$67,700) to purchase and equip a backhoe for Columbus in Luna county;

455. two hundred twenty-six thousand one hundred dollars (\$226,100) to plan, design, construct and renovate a municipal playground, wading pool and fountain, including demolishing the existing playground, in Columbus in Luna county;

456. twenty thousand dollars (\$20,000) to purchase and equip vans for Columbus in Luna county;

457. five hundred thousand dollars (\$500,000) to plan, design, construct and purchase a judicial complex and to renovate the courthouse in Deming in Luna county;

458. fifty thousand dollars (\$50,000) to purchase and equip a vehicle to transport adult detention inmates in McKinley county;

459. sixty thousand dollars (\$60,000) to purchase and equip vehicles to transport developmentally disabled persons in McKinley county;

460. twenty-five thousand dollars (\$25,000) to plan, design and construct a juvenile crisis and detention complex in McKinley county;

461. one hundred thousand dollars (\$100,000) to design and construct a public safety facility for use by the Gallup police department and the McKinley county sheriff's office in McKinley county;

462. forty-six thousand dollars (\$46,000) to purchase and equip vans for use by a program assisting battered families in McKinley county;

463. two hundred twenty-five thousand dollars (\$225,000) to design and construct Chuska affordable housing units and a community center in Gallup in McKinley county; provided that the appropriation is contingent upon the enactment into law by the first session of the forty-eighth legislature of Senate Bill 534 or similar legislation and further contingent upon an ordinance being enacted pursuant to Section 6-27-7 NMSA 1978;

464. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to the parking area, including drainage and landscaping, at the community pantry in Gallup in McKinley county;

465. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, equip and furnish a domestic violence shelter, including exterior site improvements, in Gallup in McKinley county;

466. one hundred thousand dollars (\$100,000) to plan, design, construct and equip an economic resource center in Gallup in McKinley county;

467. forty thousand dollars (\$40,000) to plan, design and construct a Hershey Miyamura monument in Gallup in McKinley county;

468. two hundred twenty-five thousand dollars (\$225,000) to purchase, plan, design, construct and renovate a facility for low-income apartments in Gallup in McKinley county; provided that the appropriation is contingent upon the enactment into law by the first session of the forty-eighth legislature of Senate Bill 534 or similar legislation and further contingent upon an ordinance being enacted pursuant to Section 6-27-7 NMSA 1978;

469. twenty-nine thousand two hundred eighty-five dollars (\$29,285) to construct, equip and improve the Gallup shooting range in Gallup in McKinley county;

470. two hundred thousand dollars (\$200,000) to plan, design and construct the Westside fire station in Gallup in McKinley county;

471. three hundred thousand dollars (\$300,000) to plan, design and construct a public safety facility for the Gallup police department and the McKinley county sheriff's office in Gallup in McKinley county;

472. five hundred thousand dollars (\$500,000) to acquire land for, plan, design, construct and equip a county dialysis center in Gallup in McKinley county;

473. one hundred thousand dollars (\$100,000) to plan, design and construct a magistrate courthouse in Gallup in McKinley county;

474. fifty thousand dollars (\$50,000) to design, remodel, equip and furnish the northwest New Mexico council of governments' building in Gallup in McKinley county;

475. one hundred thousand dollars (\$100,000) to plan, design, construct and equip improvements to Washington park in Gallup in McKinley county;

476. fifteen thousand dollars (\$15,000) to plan, design and construct a regional outdoor recreation complex in Thoreau in McKinley county;

477. thirty thousand dollars (\$30,000) to purchase and install a recording system, including related equipment and furnishings, for the county clerk's office in Mora county;

478. forty thousand dollars (\$40,000) to plan, design, construct, equip and furnish a substation for the fire department serving Ledoux, Monte Aplanado and El Carmen in Mora county;

479. fifty thousand dollars (\$50,000) to purchase and equip a truck for the county sheriff's department in Mora county;

480. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip and furnish a training facility at the Ocate and Ojo Feliz volunteer fire department in Mora county;

481. seventy thousand dollars (\$70,000) to construct improvements to the American legion pavilion in Mora in Mora county;

482. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and furnish an addition to the volunteer fire station in Mora county;

483. one million dollars (\$1,000,000) to plan, design, construct, improve and equip the courthouse in Mora in Mora county;

484. fifty thousand dollars (\$50,000) to purchase land for, plan, design, construct and equip a municipal recreation complex in Wagon Mound in Mora county;

485. twenty thousand dollars (\$20,000) to plan, design, construct, renovate and equip improvements for the municipal offices in Wagon Mound in Mora county;

486. forty thousand dollars (\$40,000) to purchase vehicles and equipment, including a dump truck, riding lawn mower, sewerage auger and sanitary dump truck, for the public works department in Wagon Mound in Mora county;

487. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a multipurpose community center in Watrous in Mora county;

488. twenty-five thousand dollars (\$25,000) to construct a library for the valle de Anton Chico land grant in San Miguel and Guadalupe counties;

489. one hundred fifteen thousand dollars (\$115,000) to purchase vehicles for use by an international-standards-organization-certified provider to transport persons with severe disabilities in Bernalillo, Valencia and Sandoval counties;

490. six hundred thousand dollars (\$600,000) to purchase an integrated detection and monitoring system portal to expand radiation detection and screening programs in Lordsburg and Anthony in Hidalgo and Dona Ana counties;

491. thirty-five thousand dollars (\$35,000) to purchase and install information technology, including related equipment and furniture, for use by Santa Maria el Mirador in Alcalde in Rio Arriba and Santa Fe counties;

492. twenty thousand dollars (\$20,000) to purchase vehicles for the boys' and girls' club of Santa Fe for use by the Santa Cruz boys' and girls' club in Santa Fe and Rio Arriba counties;

493. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and renovate the emergency response center in Otero county;

494. six hundred ninety thousand dollars (\$690,000) to plan, design, renovate and construct flood plain detention, retention and diversion structures in the Alamo canyon area of Otero county;

495. one hundred thousand dollars (\$100,000) to plan and design phase 2 of the advanced business center in Alamogordo in Otero county;

496. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct renovations, including landscaping and outdoor exhibit areas, to the historic plaza building to house the Tularosa Basin historical society museum in Alamogordo in Otero county;

497. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, equip and furnish a public library in Alamogordo in Otero county;

498. two hundred thousand dollars (\$200,000) to plan, design and construct an administration complex in Alamogordo in Otero county;

499. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and equip security improvements in the Otero county courthouse in Alamogordo in Otero county;

500. eighty thousand dollars (\$80,000) to plan, design, construct, equip and furnish a veterans' museum, including heating systems, parking areas, outdoor areas, statuary and landscaping, in Alamogordo in Otero county;

501. one hundred twenty thousand dollars (\$120,000) to construct, equip and furnish a fire station and training center in La Luz in Otero county;

502. seventy-five thousand dollars (\$75,000) to improve the swimming pool for the Timberon water and sanitation district in Timberon in Otero county;

503. one hundred five thousand dollars (\$105,000) to plan, design and construct improvements to the little league baseball field, including lighting, bleachers, scoreboards and sprinklers, in Tularosa in Otero county;

504. one hundred thousand dollars (\$100,000) to renovate the Red Brick schoolhouse in Tularosa in Otero county;

505. seventy-five thousand dollars (\$75,000) to construct and equip the veterans' memorial park, including landscaping, benches and plaques, in Tularosa in Otero county;

506. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, repair and replace roofs on county buildings, including Trigg Memorial hospital, in Quay county;

507. one hundred twenty-five thousand dollars (\$125,000) to purchase road equipment and install a rock crusher for Quay county;

508. one hundred thousand dollars (\$100,000) to plan, design, construct and renovate a swimming pool in Tucumcari in Quay county;

509. sixty-five thousand dollars (\$65,000) to plan, design and construct a recreational park for the merced del pueblo Abiquiu in Rio Arriba county;

510. sixty-nine thousand dollars (\$69,000) to plan, design, repair and replace the roof at the county detention center in Rio Arriba county;

511. one hundred thousand dollars (\$100,000) to purchase and equip a handicapped-accessible van for use by la clinica del pueblo de Rio Arriba in Rio Arriba county;

512. three hundred sixty-five thousand dollars (\$365,000) to plan, design, construct, equip and furnish a community health facility in Rio Arriba county;

513. ten thousand dollars (\$10,000) to purchase search and rescue equipment for the Rio Arriba mounted sheriff's posse in Rio Arriba county;

514. fifty thousand dollars (\$50,000) to purchase and install equipment and information technology, including related equipment and furniture, for sheriff units in Rio Arriba county;

515. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and furnish an economic development complex for the Santa Cruz de la Canada land grant in Rio Arriba and Santa Fe counties;

516. fifty thousand dollars (\$50,000) to plan, design, construct and improve the boys' and girls' club facilities in Abiquiu in Rio Arriba county;

517. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, improve and equip the fire station, including purchasing vehicles, in Abiquiu in Rio Arriba county;

518. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, equip and furnish a fire station for the Abiquiu volunteer fire department in Abiquiu in Rio Arriba county;

519. eighty thousand dollars (\$80,000) to equip and furnish the Alcalde community center and plan, design and construct a storage facility in Alcalde in Rio Arriba county;

520. twenty thousand dollars (\$20,000) to plan, design, construct and equip improvements to the fire station in Alcalde in Rio Arriba county;

521. two million five hundred thousand dollars (\$2,500,000) to purchase Los Luceros historic property in Alcalde in Rio Arriba county;

522. twenty-five thousand dollars (\$25,000) to plan, design and construct an addition to the Onate center for a land grant library in Alcalde in Rio Arriba county;

523. sixty-five thousand dollars (\$65,000) to plan, design and construct improvements to storage, office, meeting and training facilities for the Chamita fire department in Chamita in Rio Arriba county;

524. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct a multipurpose community center to house the water and ditch association, the land grant office and a sheriff substation in Chimayo in Rio Arriba county;

525. seventy-five thousand dollars (\$75,000) to renovate a mainstreet commercial building, including plumbing, drainage, flooring, sewer lines and interior and exterior stucco, that houses Espanola Valley fiber arts center, which is a regional educational facility, small business support center, showroom and retail space, in Espanola in Rio Arriba county;

526. fifty thousand dollars (\$50,000) to purchase and equip police patrol units in Espanola in Rio Arriba county;

527. fifty thousand dollars (\$50,000) to plan, design and construct additions to the Agua Sana fire station in Hernandez in Rio Arriba county;

528. one hundred thirty-two thousand dollars (\$132,000) to plan, design, construct, equip and furnish a fire station in Lindrith in Rio Arriba county;

529. one hundred thousand dollars (\$100,000) to acquire land for, plan, design, construct and equip a fire department facility in Velarde in Rio Arriba county;

530. one hundred thousand dollars (\$100,000) to plan, design, construct and equip improvements to the county fairgrounds facilities in Roosevelt county;

531. four hundred thousand dollars (\$400,000) to purchase vehicles and equipment for the road department in Roosevelt county;

532. twenty thousand dollars (\$20,000) to purchase self-contained breathing apparatus packs and cylinders for Causey in Roosevelt county;

533. fifteen thousand dollars (\$15,000) to construct and install a building for response vehicles and to renovate the community center, including flooring, countertops, carpeting and window coverings, in Causey in Roosevelt county;

534. ten thousand dollars (\$10,000) to construct improvements, including equipment, lighting, surfacing and fencing, to Causey memorial park in Causey in Roosevelt county;

535. one hundred thousand dollars (\$100,000) to purchase and equip a tanker truck for the fire department in Elida in Roosevelt county;

536. fifty thousand dollars (\$50,000) to purchase and install a telecommunication system, including related furniture and equipment, for La Casa family health center in Portales in Roosevelt county;

537. one hundred thousand dollars (\$100,000) to improve and upgrade the Portales municipal swimming pool and facilities in Portales in Roosevelt county;

538. fifty thousand dollars (\$50,000) to construct, equip and furnish athletic fields, including purchase and installation of playground equipment, in the sports complex in Portales in Roosevelt county;

539. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct, equip and furnish an intensive care unit at Roosevelt general hospital in the Roosevelt county special hospital district in Portales in Roosevelt county;

540. four hundred fifty thousand dollars (\$450,000) to plan, design, construct and equip an addition to the San Juan county archaeological research center and library in Salmon ruins in San Juan county;

541. two hundred thousand dollars (\$200,000) to plan, design, construct and equip phase 1 of a consolidated crime processing facility in San Juan county;

542. five hundred thousand dollars (\$500,000) to plan, design and construct improvements, including the exterior, to the multipurpose facility at McGee park in San Juan county;

543. three hundred thirty-five thousand dollars (\$335,000) to purchase and install microwave radio and communications equipment for the fire and police departments in Bloomfield in San Juan county;

544. three hundred thousand dollars (\$300,000) to plan, design, construct, expand and equip the fire station in Bloomfield in San Juan county;

545. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to the fire station, police and municipal court facility in Bloomfield in San Juan county;

546. two hundred thousand dollars (\$200,000) to plan, design, construct and equip a solar energy system for the boys' and girls' club in Farmington in San Juan county;

547. two hundred thousand dollars (\$200,000) to plan, design, construct and equip an office addition to the ECHO food bank warehouse building in Farmington in San Juan county;

548. five hundred fifteen thousand dollars (\$515,000) for phase 1 of the San Juan regional animal shelter project, including a feasibility study, plan and design of the facility, acquisition of property, construction, equipment and furnishings, in Farmington in San Juan county;

549. two hundred thousand dollars (\$200,000) to plan, design and construct the San Juan regional cancer center in Farmington in San Juan county;

550. one million one hundred fifty thousand dollars (\$1,150,000) to plan, design, construct and equip a youth facility in Kirtland in San Juan county;

551. seventy-five thousand dollars (\$75,000) to plan, design, construct and equip a conference area for the fourth judicial district attorney's office in San Miguel county;

552. fifty thousand dollars (\$50,000) to purchase and equip a fire truck for La Placita rural volunteer fire department in San Miguel county;

553. ninety thousand dollars (\$90,000) to plan, design, construct and equip improvements to the community park in the Uppertown Plaza area in San Miguel county;

554. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip improvements, including infrastructure improvements and fencing, to the detention center in San Miguel county;

555. sixty-five thousand dollars (\$65,000) to purchase and equip passenger vans and a canine operations vehicle for the detention center in San Miguel county;

556. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish a building and make site and utility improvements at the fairgrounds in San Miguel county;

557. fifteen thousand dollars (\$15,000) to purchase farm equipment and vehicles for San Miguel county;

558. seventy-five thousand dollars (\$75,000) to purchase and install information technology, including related equipment and furniture, in county offices in San Miguel county;

559. one hundred forty thousand dollars (\$140,000) to purchase and equip vehicles for the sheriff's department in San Miguel county;

560. five hundred thousand dollars (\$500,000) to plan, design and construct utility system infrastructure for the Wood Cluster park in San Miguel county;

561. fifty thousand dollars (\$50,000) to replace the door and frame at the Abe Montoya recreation center in Las Vegas in San Miguel county;

562. six hundred seventy-five thousand dollars (\$675,000) to plan, design, renovate and equip the armory memorial center in Las Vegas in San Miguel county;

563. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements to Commerce street park in Las Vegas in San Miguel county;

564. fifty thousand dollars (\$50,000) to plan, design, construct and equip a municipal courthouse in Las Vegas in San Miguel county;

565. twenty-five thousand dollars (\$25,000) to improve existing city facilities to comply with the requirements of the Americans with Disabilities Act of 1990 in Las Vegas in San Miguel county;

566. fifty thousand dollars (\$50,000) to purchase and install equipment for the fire department in Las Vegas in San Miguel county;

567. one hundred thousand dollars (\$100,000) to make improvements to Mills avenue veterans' park in Las Vegas in San Miguel county;

568. ten thousand dollars (\$10,000) to plan, design, construct and equip Pancho Padilla park in Las Vegas in San Miguel county;

569. three hundred thousand dollars (\$300,000) to purchase and equip police vehicles for Las Vegas in San Miguel county;

570. ten thousand dollars (\$10,000) to plan, design and construct improvements, including a new roof, at the Romero fire station in Las Vegas in San Miguel county;

571. one hundred forty thousand dollars (\$140,000) to plan, design, construct and renovate a building for a veterans' homeless shelter in Las Vegas in San Miguel county;

572. one hundred thirty thousand dollars (\$130,000) to plan, design, construct and equip a veterans' services building in Las Vegas in San Miguel county;

573. five hundred thousand dollars (\$500,000) to plan, design, construct and renovate the county courthouse in Las Vegas in San Miguel county;

574. seventy-five thousand dollars (\$75,000) to purchase an activity bus for use by the Las Vegas special Olympics program in San Miguel county;

575. six hundred thousand dollars (\$600,000) to plan, design, construct, renovate and preserve the Ribera school in Ribera in San Miguel county;

576. forty thousand dollars (\$40,000) to plan, design and construct interior and exterior improvements to the fire station for the Rowe volunteer fire department in Rowe in San Miguel county;

577. ten thousand dollars (\$10,000) to renovate and upgrade the San Juan community center in San Juan in San Miguel county;

578. twenty-five thousand dollars (\$25,000) to plan, design and construct additions to the fire station in Tecolote in San Miguel county;

579. ten thousand dollars (\$10,000) to plan, design, construct, equip and furnish a district attorney judicial complex in the thirteenth judicial district in Sandoval county;

580. five hundred thousand dollars (\$500,000) to purchase, plan, design, construct and equip exhibits for the international science and engineering fair in Sandoval county;

581. fifty thousand dollars (\$50,000) to purchase equipment for the First Tee learning center in Sandoval county;

582. fifty thousand dollars (\$50,000) to plan, design and improve little league fields in Sandoval county;

583. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements to the magistrate court building in Sandoval county;

584. five hundred forty thousand dollars (\$540,000) to plan, design, construct and equip improvements, including lighting, bleachers, landscaping, concession facilities and infrastructure, at the New Mexico soccer tournament complex in Sandoval county;

585. one hundred twenty-five thousand dollars (\$125,000) to purchase and install emergency power generating systems in Sandoval county;

586. one hundred thousand dollars (\$100,000) to plan, design and construct an emergency road supply station in Sandoval county;

587. sixty-five thousand dollars (\$65,000) to purchase and equip trucks and trailers for community recycling activities in Sandoval county;

588. fifty thousand dollars (\$50,000) to plan, design, construct and furnish a county-owned community multicultural center near New Mexico highways 550 and 313 in Bernalillo in Sandoval county;

589. twenty-five thousand dollars (\$25,000) to plan, design, equip and improve infrastructure, including improvements to comply with the requirements of the Americans with Disabilities Act of 1990, used by the Coronado little league in Bernalillo in Sandoval county;

590. five hundred thousand dollars (\$500,000) to repair and renovate El Zocalo compound for use as a multiuse business development facility in Bernalillo in Sandoval county;

591. fifty thousand dollars (\$50,000) to plan, design and construct a performing arts center in Bernalillo in Sandoval county;

592. two hundred eighty-five thousand dollars (\$285,000) to plan, design, construct, equip and furnish a public safety building to house the police and fire departments in Bernalillo in Sandoval county;

593. twenty-five thousand dollars (\$25,000) to plan, design and construct a veterans' memorial in Bernalillo in Sandoval county;

594. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to Casa San Ysidro, including a visitor center and a bridge, in Corrales in Sandoval county;

595. three hundred seventy-five thousand dollars (\$375,000) to plan, design and construct site improvements at Casa San Ysidro in Corrales in Sandoval county;

596. one hundred fifty thousand dollars (\$150,000) to purchase, install and construct equipment and infrastructure, including wells, tanks and communication infrastructure, for firefighting in Corrales in Sandoval county;

597. fifty thousand dollars (\$50,000) to purchase land for, plan, design and construct flood control improvements for the southern Sandoval county arroyo flood control authority in Corrales in Sandoval county;

598. one hundred thousand dollars (\$100,000) to purchase and install public safety communication equipment in Corrales in Sandoval county;

599. twenty-five thousand dollars (\$25,000) to purchase, renovate, plan, design and construct a public safety facility, including land acquisition, for the police and animal control departments in Corrales in Sandoval county;

600. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a skate park in Corrales in Sandoval county;

601. thirty thousand dollars (\$30,000) to plan, design and construct a trails system through Corrales in Sandoval county;

602. fifty thousand dollars (\$50,000) to renovate the park in Cuba in Sandoval county;

603. fifty thousand dollars (\$50,000) to purchase and equip vehicles for the police department in Cuba in Sandoval county;

604. one hundred thousand dollars (\$100,000) to construct, equip and furnish the Jemez Springs public library expansion in Jemez Springs in Sandoval county;

605. one hundred forty-five thousand dollars (\$145,000) to furnish and equip the county-owned community library and multiuse center in Placitas in Sandoval county;

606. two hundred eighty-five thousand dollars (\$285,000) to plan, design, construct and equip a New Mexico military history museum in Rio Rancho in Sandoval county;

607. two hundred fifteen thousand dollars (\$215,000) to plan, design, construct and equip a teen center for the boys' and girls' club in Rio Rancho in Sandoval county;

608. fifty thousand dollars (\$50,000) to plan, design and construct a performing arts center in Rio Rancho in Sandoval county;

609. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct and equip a recreation center, including a swimming pool, in Rio Rancho in Sandoval county;

610. one hundred five thousand dollars (\$105,000) to plan, design, construct, equip and improve Sierra Norte II park, including a sports facility and drinking fountains, in Rio Rancho in Sandoval county;

611. two hundred forty thousand dollars (\$240,000) to plan, design and construct an expansion of and renovations to the county-owned Haven house domestic violence shelter in Rio Rancho in Sandoval county;

612. four hundred thousand dollars (\$400,000) to plan, design and construct drainage projects to provide flood control for phase 1 of unit 17 for the southern Sandoval county arroyo flood control authority in Rio Rancho in Sandoval county;

613. fifty thousand dollars (\$50,000) to plan, design, equip and construct renovations to the multijurisdictional public safety building, incident command center and village buildings, including security improvements and construction of a public safety network, in San Ysidro in Sandoval county;

614. fifty thousand dollars (\$50,000) to acquire land for, plan, design, construct, equip and furnish the first judicial district complex in Santa Fe county;

615. two hundred thousand dollars (\$200,000) to plan, design, construct and equip improvements to the Agua Fria park and community center in Santa Fe county;

616. three hundred thousand dollars (\$300,000) to acquire, plan, design, construct, renovate and equip a community and senior center in Jacona in the Pojoaque valley in Santa Fe county;

617. fifteen thousand dollars (\$15,000) to purchase handicapped-accessible buses and infrastructure, including bus shelters, benches and signs, in the north central regional transit district in Santa Fe county;

618. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and equip the Agua Fria children's zone multipurpose center in Santa Fe county;

619. fifty thousand dollars (\$50,000) to purchase, install and equip a digital recording, scanning and archiving system for the county clerk's office in Santa Fe county;

620. sixty-five thousand dollars (\$65,000) to equip and furnish a multipurpose center for use by an organization serving the developmentally disabled in Santa Fe county;

621. two hundred seventy thousand dollars (\$270,000) to purchase and acquire land for and to plan, design, construct, equip and furnish the Esperanza shelter administrative complex in Santa Fe county;

622. two hundred fifty thousand dollars (\$250,000) to acquire, plan, design, construct and improve a covered arena at the fairgrounds in Santa Fe county;

623. two hundred seventy-five thousand dollars (\$275,000) to plan, design, construct, renovate and equip facilities and infrastructure at the fairgrounds in Santa Fe county;

624. eighty thousand dollars (\$80,000) to purchase, equip, furnish and make improvements to the head start program sites and the community mental health center in Santa Fe county;

625. one hundred four thousand two hundred eighty-five dollars (\$104,285) to plan, design and construct a homeless shelter facility for use by Santa Fe and northern New Mexico in Santa Fe county;

626. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip a new judicial complex in Santa Fe county;

627. one hundred fifty-eight thousand two hundred eighty-five dollars (\$158,285) to purchase, plan, design and renovate a facility for use by a clubhouse-model program serving persons with severe mental illness in Santa Fe county;

628. twenty-five thousand dollars (\$25,000) to purchase vehicles for Santa Fe county;

629. two hundred forty thousand dollars (\$240,000) to acquire land for, plan, design and construct county-owned facilities for the Santa Fe mountain center in Santa Fe county;

630. fifty thousand dollars (\$50,000) for land acquisitions and improvements for a protected Santa Fe river corridor at the Santa Fe river in Santa Fe county;

631. four hundred fifty thousand dollars (\$450,000) to plan, design, construct, equip and furnish a youth shelter and family services facility in Santa Fe county;

632. twenty-eight thousand six hundred ninety-seven dollars (\$28,697) to plan, design, construct, equip and expand a community center in Cundiyo in Santa Fe county;

633. one hundred fifty thousand dollars (\$150,000) to plan, design and construct an animal shelter in Edgewood in Santa Fe county;

634. fifty thousand dollars (\$50,000) to plan, design, construct and acquire land for a public works facility in Edgewood in Santa Fe county;

635. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and furnish the phase 3 addition to the Vista Grande public library in Eldorado in Santa Fe county;

636. twenty-five thousand dollars (\$25,000) to plan and design improvements to the Vista Grande library roof in Eldorado in Santa Fe county;

637. forty thousand dollars (\$40,000) to purchase land for a community center in La Cienega in Santa Fe county;

638. two hundred five thousand dollars (\$205,000) to plan, design, purchase, construct, equip and furnish a multipurpose community center, including site development, in La Puebla in Santa Fe county;

639. fifty thousand dollars (\$50,000) to plan, design, renovate and restore Our Lady of Light chapel in Lamy in Santa Fe county;

640. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including restoring the grandstand and retaining walls, at the Oscar Huber memorial ball park in Madrid in Santa Fe county;

641. sixty thousand dollars (\$60,000) to plan, design, construct, equip, improve and purchase an outdoor restroom facility in Madrid in Santa Fe county;

642. fifty thousand dollars (\$50,000) to acquire land for and plan, design, construct, improve and equip tennis and basketball courts and a walking track for the Nambe head start campus in Santa Fe county;

643. one hundred ten thousand dollars (\$110,000) to plan, design and construct tennis courts on county land in Pojoaque in Santa Fe county;

644. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct interior and exterior renovation and improvements to el museo cultural's facility in Santa Fe in Santa Fe county;

645. thirty thousand dollars (\$30,000) to purchase amateur athletic union wrestling equipment for Santa Fe in Santa Fe county;

646. twenty-five thousand dollars (\$25,000) to make improvements to the entranceway at barrio de la Canada in Santa Fe in Santa Fe county;

647. one hundred thirty-five thousand dollars (\$135,000) to plan, design and construct trails and a water system at the Santa Fe botanical gardens on city property near Museum Hill in Santa Fe in Santa Fe county;

648. twenty-five thousand dollars (\$25,000) to purchase and install equipment, furniture and information technology at the city-owned Alto street and Valle Vista boys' and girls' club sites in Santa Fe in Santa Fe county;

649. twenty-five thousand dollars (\$25,000) to plan, design, improve, upgrade and repair the Alto street facility of the city-owned boys' and girls' club in Santa Fe in Santa Fe county;

650. seventy-five thousand dollars (\$75,000) to renovate and install a roof at the Santa Fe boys' and girls' club on Alto street in Santa Fe in Santa Fe county;

651. forty-five thousand dollars (\$45,000) to plan, design and construct a Santa Fe boys' and girls' club facility in Santa Fe in Santa Fe county;

652. twenty-five thousand dollars (\$25,000) to plan, design and construct the Santa Fe civic center in Santa Fe in Santa Fe county;

653. twenty-five thousand dollars (\$25,000) to plan, design and renovate bathroom facilities in units occupied by disabled senior residents, including improvements to comply with the requirements of the Americans with Disabilities Act of 1990, for the Santa Fe civic housing authority in Santa Fe in Santa Fe county;

654. seventy-five thousand dollars (\$75,000) to plan, design, expand and construct renovations to a Santa Fe civic housing authority building for a neighborhood community center, including related equipment and furniture, in Santa Fe in Santa Fe county;

655. three hundred thousand dollars (\$300,000) to plan, design and construct additional dance studios and storage facilities for the dance barns of the national dance institute of New Mexico in Santa Fe in Santa Fe county;

656. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and equip a facility for the farmers' market at the railyard in Santa Fe in Santa Fe county;

657. one hundred forty thousand dollars (\$140,000) to plan, design, construct and equip fire station number 3 near Ashbaugh park in Santa Fe in Santa Fe county;

658. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to Franklin E. Miles park in Santa Fe in Santa Fe county;

659. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip improvements to Fort Marcy park in Santa Fe in Santa Fe county;

660. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct improvements to the Genoveva Chavez community center in Santa Fe in Santa Fe county;

661. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a permanent indoor arts market facility in Santa Fe in Santa Fe county;

662. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip improvements, expansion and renovations to comply with the requirements of the Americans with Disabilities Act of 1990 and federal and safety code requirements at the La Farge branch library in Santa Fe in Santa Fe county;

663. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to Larragoite park in Santa Fe in Santa Fe county;

664. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to the Santa Fe municipal airport in Santa Fe in Santa Fe county;

665. one hundred eighty thousand dollars (\$180,000) to plan, design and construct a concession building at the municipal recreation complex rugby fields on Caja del Rio road in Santa Fe in Santa Fe county;

666. fifty thousand dollars (\$50,000) to plan, design and construct a police and fire joint training facility in Santa Fe in Santa Fe county;

667. four hundred fifty thousand dollars (\$450,000) to plan, design, renovate and construct additions to the Santa Fe police department main facility in Santa Fe in Santa Fe county;

668. one million dollars (\$1,000,000) to plan, design, construct and equip improvements to the main public safety building in Santa Fe in Santa Fe county;

669. fifty thousand dollars (\$50,000) to plan, design, construct and equip Ragle park in Santa Fe in Santa Fe county;

670. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct improvements to the railyard park and plaza in Santa Fe in Santa Fe county;

671. three hundred seventy-five thousand dollars (\$375,000) to plan, design, construct, equip and furnish the Railyard teen art center in Santa Fe in Santa Fe county;

672. two hundred thousand dollars (\$200,000) to acquire rights of way for, plan, design and construct improvements, including a trail, along the Santa Fe river between Camino Alire and Frenchy's park in Santa Fe in Santa Fe county;

673. twenty-five thousand dollars (\$25,000) to purchase and equip vehicles for a downtown shuttle system for Santa Fe in Santa Fe county;

674. one hundred fifty thousand dollars (\$150,000) to purchase and install equipment and furnishings for the EKG network extension at St. Vincent medical center in Santa Fe in Santa Fe county;

675. one hundred fifty thousand dollars (\$150,000) to purchase and install digital mammography and diagnostic equipment, including information technology, at St. Vincent medical center in Santa Fe in Santa Fe county;

676. one hundred fifty thousand dollars (\$150,000) to purchase and install information technology for the medical and health records system at St. Vincent medical center in Santa Fe in Santa Fe county;

677. one hundred fifty thousand dollars (\$150,000) to plan, design, renovate and expand facilities, including the emergency department, at St. Vincent medical center in Santa Fe in Santa Fe county;

678. one hundred ten thousand dollars (\$110,000) to purchase and equip vans for transporting teens in Santa Fe in Santa Fe county;

679. forty thousand dollars (\$40,000) to purchase books and purchase and install information technology, including related equipment and furniture, in commemoration of the four hundredth anniversary celebration of the founding of the Villa Real de la Santa Fe de San Francisco de Asis in Santa Fe in Santa Fe county;

680. nine hundred thousand dollars (\$900,000) to plan, design, construct, renovate, equip and furnish a women's health services facility in Santa Fe in Santa Fe county;

681. three hundred seventy-five thousand dollars (\$375,000) to plan, design, construct, equip and landscape a statewide trauma treatment facility and Santa Fe rape crisis center focusing on providing veterans' services in Santa Fe in Santa Fe county;

682. forty-five thousand dollars (\$45,000) to plan, design, construct and equip an addition to the Zona del Sol youth center in Tierra Contenta in Santa Fe in Santa Fe county;

683. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, equip and furnish a youth agricultural facility in Stanley in Santa Fe county;

684. four hundred thousand dollars (\$400,000) for improvements to the fairgrounds, including planning, designing and constructing a building, in Sierra county;

685. seven hundred fifty thousand dollars (\$750,000) to acquire land for, plan, design, construct, furnish and equip a hospital in Sierra county;

686. two hundred thousand dollars (\$200,000) to plan, design, construct and equip a museum and visitors' center at the veterans' memorial park in Truth or Consequences in Sierra county;

687. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a multipurpose center in Abeytas-Sabinal in Socorro county;

688. thirty-nine thousand two hundred eighty-five dollars (\$39,285) to construct, equip and furnish a fire station, including exterior asphalt paving, at the Hop Canyon fire department in Socorro county;

689. one hundred fifty thousand dollars (\$150,000) to renovate, landscape and install playground equipment and irrigation systems to the Polvadera, Escondida and San Antonio parks in Socorro county;

690. seven hundred fifty thousand dollars (\$750,000) to plan, design and construct road improvements and a building and to purchase equipment in Socorro county;

691. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct and equip the Veguita health and community center in Socorro county;

692. two hundred thousand dollars (\$200,000) to plan, design and construct the municipal complex, including the village hall and the public works department, in Magdalena in Socorro county;

693. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish a multipurpose youth center to house the boys' and girls' club in Socorro in Socorro county;

694. one hundred thousand dollars (\$100,000) to construct, equip and furnish renovations to the Socorro county health office;

695. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and equip the road department building in Socorro in Socorro county;

696. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a convention center, including rodeo and recreation facilities, in Socorro in Socorro county;

697. seventy-five thousand dollars (\$75,000) to acquire, renovate, repair, equip and furnish the former bureau of land management building as an administrative complex in Socorro in Socorro county;

698. thirty-five thousand dollars (\$35,000) to purchase and equip a vehicle for use by a provider of fetal alcohol syndrome awareness programs statewide;

699. two hundred thousand dollars (\$200,000) for a feasibility study and to purchase and install information technology for the New Mexico bowl in Albuquerque in Bernalillo county;

700. one hundred thousand dollars (\$100,000) to purchase technology for the health information collaborative in Albuquerque in Bernalillo county for use by rural primary health care clinics and private practice clinics;

701. one hundred thousand dollars (\$100,000) to purchase and install information technology for use by the North American institute;

702. one million dollars (\$1,000,000) to plan, design, construct and equip local fair and arena facilities, including expenditures related to the rodeo statewide;

703. five million five hundred thousand dollars (\$5,500,000) to plan, design and construct infrastructure improvements for colonias statewide and make emergency school wastewater system improvements;

704. five million seven hundred thousand dollars (\$5,700,000) for film and media production, education and training facilities and other film initiatives statewide;

705. twenty thousand dollars (\$20,000) to plan, design, construct and equip a fire station and community center for the Latir volunteer fire department in Taos county;

706. twenty-five thousand dollars (\$25,000) to plan, design and construct renovations, including improvements that comply with the Americans with Disabilities Act of 1990, to the community center in Los Cordovas in Taos county;

707. twenty thousand dollars (\$20,000) to purchase and install emergency warning sirens in the Pot Creek area in Taos county;

708. forty thousand dollars (\$40,000) to purchase and equip a fire truck for the Pot Creek fire department in Talpa in Taos county;

709. fifty thousand dollars (\$50,000) to purchase equipment and vehicles for the Rocky Mountain youth corps in Taos county;

710. twenty-five thousand dollars (\$25,000) to renovate and remodel the community center in Rodarte in Taos county;

711. twenty-five thousand dollars (\$25,000) to plan, design, construct, renovate and equip the Arroyo Seco-Valdez community center in Taos county;

712. twenty-three thousand six hundred ninety-seven dollars (\$23,697) to purchase and install information technology and related equipment for a geographic information mapping system in Taos county;

713. one hundred thousand dollars (\$100,000) to purchase and install information technology, including related furniture and equipment and radiology and mammography equipment and fluoroscopes, for the hospital in Taos county;

714. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements to and expansion of the indoor 4-H arena in Taos county;

715. one hundred thousand dollars (\$100,000) to purchase equipment for the public works department in Taos county;

716. one hundred fifty thousand dollars (\$150,000) to purchase road equipment for Taos county;

717. one hundred thousand dollars (\$100,000) to purchase and equip patrol units for the sheriff's department in Taos county;

718. thirty thousand dollars (\$30,000) to purchase and equip a truck with a tommy-lift for transport of voting machines in Taos county;

719. twenty-five thousand dollars (\$25,000) to purchase and equip rescue vehicles for the Hondo-Seco volunteer fire department in Arroyo Hondo in Taos county;

720. forty thousand dollars (\$40,000) to purchase, repair and equip an ambulance in Ojo Caliente in Taos county;

721. one hundred thousand dollars (\$100,000) to renovate the community center building and site in Penasco in Taos county;

722. fifty thousand dollars (\$50,000) to purchase and equip an ambulance and refurbish an existing ambulance in Questa in Taos county;

723. seventy-five thousand dollars (\$75,000) to plan, design and continue construction on a little league park in Questa in Taos county;

724. thirty thousand dollars (\$30,000) to purchase and equip a recreational vehicle for a mobile communications center in Questa in Taos county;

725. twenty thousand dollars (\$20,000) to plan, design, install and construct a floor in the public works garage in Questa in Taos county;

726. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip a veterans' memorial in Questa in Taos county;

727. fifty thousand dollars (\$50,000) to purchase land for, plan, design and construct an educational building in Red River in Taos county;

728. four hundred thousand dollars (\$400,000) to purchase land for, plan, design, construct and equip a fire station in Red River in Taos county;

729. fifty thousand dollars (\$50,000) to plan, design and construct the Alexander-Gusdorf eco-park, including an environmentally interactive wastewater recycling system, in Taos in Taos county;

730. two hundred thousand dollars (\$200,000) to plan, design and construct the center for the arts complex in Taos in Taos county;

731. thirty-five thousand dollars (\$35,000) to plan, design and reconstruct bathrooms, including purchase and installation of related equipment, at Taos general services department in Taos in Taos county;

732. seventy-four thousand dollars (\$74,000) to acquire land for, plan, design, construct and equip a youthbuild facility in Taos in Taos county;

733. twenty-five thousand dollars (\$25,000) to purchase and equip a vehicle for use by the dreamtree emergency shelter of the dreamtree project in Taos in Taos county;

734. forty-five thousand dollars (\$45,000) to plan, design and construct improvements to little league baseball fields, including purchase and installation of related equipment, in Taos in Taos county;

735. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish a facility for the mobile matanza program in Taos in Taos county;

736. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to the multipurpose theater, including improvements to meet the requirements of the Americans with Disabilities Act of 1990 and code compliance, in Taos in Taos county;

737. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to municipal buildings in Taos in Taos county;

738. four hundred thousand dollars (\$400,000) to plan, design and construct a public safety building, including vehicle storage bays, in Taos Ski Valley in Taos county;

739. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish a park in the Manzano land grant in Torrance county;

740. twenty-five thousand dollars (\$25,000) to plan, design and construct a multiuse trail system between Moriarty and Estancia in Torrance county;

741. fifty thousand dollars (\$50,000) to purchase and install equipment for the county clerk in Torrance county;

742. seventy-five thousand dollars (\$75,000) to purchase and equip vehicles for the sheriff's department in Torrance county;

743. forty thousand dollars (\$40,000) to purchase a vehicle for transporting residents in Torrance county;

744. forty-one thousand dollars (\$41,000) for asbestos abatement to a village-owned building in Encino in Torrance county;

745. fifty thousand dollars (\$50,000) to plan, design and construct improvements to Arthur park, including paving the parking facilities at the Williams memorial library and swimming pool, constructing restroom facilities and landscaping, in Estancia in Torrance county;

746. twenty-five thousand dollars (\$25,000) to renovate the community center and municipal building, including designing, constructing and equipping, and furnishing a kitchen facility, in Estancia in Torrance county;

747. fifty thousand dollars (\$50,000) to plan, design, construct, furnish and equip a substation for the McIntosh fire department in Torrance county;

748. four hundred fifteen thousand dollars (\$415,000) to plan, design and construct a DWI memorial park in Moriarty in Torrance county;

749. three hundred thousand dollars (\$300,000) to plan, design and construct mainstreet improvements, including landscaping, gateway feature, lighting and bike and walking trails, in Moriarty in Torrance county;

750. one hundred forty thousand dollars (\$140,000) to plan, design and construct a public safety facility in Moriarty in Torrance county;

751. two hundred thousand dollars (\$200,000) to acquire land for and refurbish the multipurpose center in Mountainair in Torrance county;

752. fifty thousand dollars (\$50,000) to purchase, install and equip vehicles for the police department in Mountainair in Torrance county;

753. fifty thousand dollars (\$50,000) to construct and equip improvements to the multipurpose center in Willard in Torrance county;

754. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip and furnish a communications facility in Union county;

755. one hundred fifty thousand dollars (\$150,000) to purchase and equip fire tankers for the rural fire departments in Union county;

756. nine hundred sixty-four thousand two hundred eighty-five dollars (\$964,285) to plan, design, renovate and expand the county hospital in Union county;

757. twenty-five thousand dollars (\$25,000) to purchase and install equipment, including upgrades, for the Folsom fire department in Folsom in Union county;

758. one hundred thousand dollars (\$100,000) to purchase and equip a tanker for the Jarales fire district in Valencia county;

759. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the parking lot and purchase, install and relocate a water tank for Los Chavez fire department in Valencia county;

760. one hundred thousand dollars (\$100,000) to repair and remodel the Meadow Lake community center in Valencia county;

761. one hundred thousand dollars (\$100,000) to plan, design and construct the Meadow Lake fire station in Valencia county;

762. one hundred twenty thousand dollars (\$120,000) to pave and resurface the parking lot and to renovate the building at the Tome-Adelino fire department in Valencia county;

763. four hundred thousand dollars (\$400,000) to plan, design, construct, renovate and equip an animal control facility in Valencia county;

764. twenty-five thousand dollars (\$25,000) to plan, design and construct the Belen public health facility in Valencia county;

765. one hundred eighty thousand dollars (\$180,000) to purchase and install information technology, including related equipment and furniture, in vehicles for the sheriff's department in Valencia county;

766. one hundred thousand dollars (\$100,000) to purchase vehicles for the sheriff's department in Valencia county;

767. forty thousand dollars (\$40,000) to purchase and equip a tanker for the Valencia and El Cerro fire department in Valencia county;

768. two hundred thirty thousand dollars (\$230,000) to plan, design and construct a maintenance building in Bosque Farms in Valencia county;

769. one hundred fifty thousand dollars (\$150,000) to purchase and equip a medical rescue unit in Bosque Farms in Valencia county;

770. one hundred sixty-six thousand dollars (\$166,000) to purchase and install information technology, including related equipment and furniture, for the Bosque Farms police department in Valencia county;

771. two hundred seventy thousand dollars (\$270,000) to construct, renovate, equip and furnish the Jarales community center and the sheriff's substation, including exterior site improvements, in Valencia county;

772. four hundred forty-nine thousand two hundred eighty-five dollars (\$449,285) to plan, design and construct outdoor lighting for the Enchantment little league fields and Los Lunas sports complex fields in Los Lunas in Valencia county; and

773. four hundred fifty thousand dollars (\$450,000) to construct, equip, furnish, renovate and landscape the Tome Dominquez de Mendoza community center in Tome in Valencia county.

## **Chapter 42 Section 69 Laws 2007**

Section 69. DEPARTMENT OF MILITARY AFFAIRS PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the department of military affairs for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. eighty thousand dollars (\$80,000) to purchase and equip buses for use by the New Mexico youth challenge academy in Roswell in Chaves county; and

2. one hundred fifty thousand dollars (\$150,000) to construct, equip and furnish an aircraft hangar and meeting facility in Farmington in San Juan county.

## **Chapter 42 Section 70 Laws 2007**

Section 70. DEPARTMENT OF PUBLIC SAFETY PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the department of public safety for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. one million dollars (\$1,000,000) for vehicle replacement statewide; and

2. one million two hundred thousand dollars (\$1,200,000) to replace the aircraft for the New Mexico state police.

## **Chapter 42 Section 71 Laws 2007**

Section 71. READING MATERIALS FUND PROJECT--GENERAL FUND.--Two hundred eighty-five thousand dollars (\$285,000) is appropriated from the general fund to the reading materials fund for expenditure in fiscal year 2007 and subsequent fiscal

years for scientific research-based core comprehensive, intervention and supplementary books for reading programs in school districts statewide. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

### **Chapter 42 Section 72 Laws 2007**

Section 72. NEW MEXICO STATE POLICE DIVISION PROJECT-- GENERAL FUND.--Two hundred fifty thousand dollars (\$250,000) is appropriated from the general fund to the New Mexico state police division of the department of public safety for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to purchase semi-automatic defibrillators statewide for the New Mexico state police.

### **Chapter 42 Section 73 Laws 2007**

Section 73. TAXATION AND REVENUE DEPARTMENT PROJECT-- GENERAL FUND.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the taxation and revenue department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for a feasibility study and to purchase and install information technology, including related equipment and furniture, for the tax policy project.

### **Chapter 42 Section 74 Laws 2007**

Section 74. TOURISM DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the tourism department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. one hundred thirty-two thousand dollars (\$132,000) to acquire property for and renovate, furnish and equip a building to house the intertribal Indian ceremonial office in Gallup in McKinley county;

2. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and furnish the sunspot solar system model at the sunspot astronomy and visitor center in Otero county; and

3. one hundred thousand dollars (\$100,000) to purchase a multipurpose show and events trailer for use statewide.

### **Chapter 42 Section 75 Laws 2007**

Section 75. DEPARTMENT OF TRANSPORTATION PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the

department of transportation for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. one hundred forty-eight thousand dollars (\$148,000) to plan, design and construct improvements, including curbing, to Amalia road from Old Coors drive to Foothill drive in the south valley of Bernalillo county;
2. one hundred eighty thousand dollars (\$180,000) to plan, design and construct road improvements, including paving, on Anaheim avenue, Corona avenue and Wilshire avenue from Holbrook in Bernalillo county;
3. two hundred forty-five thousand dollars (\$245,000) to plan, design and construct improvements at the intersection of Arenal and Atrisco roads SW in the south valley of Bernalillo county;
4. one hundred thousand dollars (\$100,000) to plan, design and construct street lighting improvements in the Kinney Brick and Mountain View neighborhoods in Bernalillo county;
5. one hundred thousand dollars (\$100,000) to plan, design and construct a range for use by the New Mexico motorcycle safety program in Bernalillo county;
6. one hundred one thousand four hundred dollars (\$101,400) to plan, design and construct improvements, including asphalt paving, to Big Dipper road in Bernalillo county;
7. ninety thousand dollars (\$90,000) to plan, design and construct road improvements, including paving, to Cuatro Milpas road in Bernalillo county;
8. one hundred thousand dollars (\$100,000) to plan, design and construct road improvements, including paving, to Doty road in Bernalillo county;
9. one hundred thousand dollars (\$100,000) to plan, design and construct road improvements, including paving, to El Corto drive in Bernalillo county;
10. one hundred thousand dollars (\$100,000) to plan, design and construct road improvements, including widening and acquiring right of way, to Eubank boulevard between Academy boulevard and Paseo del Norte in Bernalillo county;
11. two hundred fifty thousand dollars (\$250,000) for acquisition of rights of way, planning, designing and construction of roadway drainage and paving improvements to Five Points road from Gatewood avenue to Atrisco drive in the south valley in Bernalillo county;
12. seven thousand five hundred dollars (\$7,500) to plan, design and construct improvements, including curbing and repaving of speed humps, on Foothill road from

Arenal road to Telesfor drive and on other roads in the Atrisco and Ranchos de Atrisco areas in the south valley of Bernalillo county;

13. thirteen thousand one hundred dollars (\$13,100) to plan, design and construct improvements to Glory court in the south valley area of Bernalillo county;

14. eight thousand dollars (\$8,000) to purchase and install "Camino Real" and "Route 66" signage on Isleta boulevard from Bridge boulevard to Rio Bravo boulevard in the south valley of Bernalillo county;

15. seventy thousand dollars (\$70,000) to plan, design and construct road improvements, including paving, on Jerry road to Tapia road in Bernalillo county;

16. two hundred thousand dollars (\$200,000) to plan, design and construct road improvements, including paving, on La Vega drive in Bernalillo county;

17. one hundred nineteen thousand dollars (\$119,000) to plan, design and construct improvements to Lark road from Cardinal drive to Mockingbird drive in Bernalillo county;

18. one hundred forty thousand six hundred dollars (\$140,600) to plan, design and construct improvements to Malpais road from Isleta boulevard east to Potomac drive, including paving, in Bernalillo county;

19. forty-seven thousand dollars (\$47,000) to plan, design and construct improvements on Meadow road from the beginning of the road to Tapia road, including paving, in Bernalillo county;

20. three hundred seventy-five thousand dollars (\$375,000) to plan, design and construct improvements to streets in the Sandia Heights area of Bernalillo county;

21. fifty thousand dollars (\$50,000) to plan, design and construct road improvements, including paving, for Shasta road in Bernalillo county;

22. thirty-six thousand dollars (\$36,000) to plan, design and construct road improvements, including paving, to Southfield road in Bernalillo county;

23. two hundred thousand dollars (\$200,000) to plan, design and construct surfacing to Steeplechase drive between Sedillo road and Sedillo road in Bernalillo county;

24. seven thousand two hundred dollars (\$7,200) to plan, design and construct shoulder and road improvements to Sunbeam road from Isleta boulevard to Saavedra road in the south valley of Bernalillo county;

25. twenty-one thousand dollars (\$21,000) to purchase, plan, design and construct improvements to Sunset road, Yakima road and Gatewood avenue in the south valley of Bernalillo county;

26. fifty thousand dollars (\$50,000) to plan, design and construct road, drainage and signal improvements to Unser boulevard between Paradise boulevard and Irving boulevard in Bernalillo county;

27. eleven thousand dollars (\$11,000) to plan, design and construct shoulder and road improvements to Waldie road from Isleta boulevard to the terminus in the south valley of Bernalillo county;

28. fourteen thousand one hundred dollars (\$14,100) to plan, design and construct shoulder and road improvements to Wilbur road from Atrisco drive to Foothill road in the south valley of Bernalillo county;

29. one hundred thousand dollars (\$100,000) to plan, design and construct road and street improvements, including roundabouts, roadway medians, sidewalks, bicycle paths and landscaping, in the vicinity of Twelfth street and Menaul boulevard NW, in Albuquerque in Bernalillo county;

30. one hundred fifty-five thousand dollars (\$155,000) to plan, design and construct improvements, including pedestrian and streetscape improvements, to Fourth street between Douglas MacArthur road and the village of Los Ranchos de Albuquerque in Bernalillo county;

31. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements, including crosswalks, safety lighting and flashing lights, at the intersection of Fourth street and Stover avenue in the Barelvas area of Albuquerque in Bernalillo county;

32. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct landscape improvements at the intersection of Seventy-second street and Ladera drive in Albuquerque in Bernalillo county;

33. twenty-five thousand dollars (\$25,000) for landscaping and streetscaping improvements on Eighth street from Bridge boulevard to Coal avenue in the Barelvas area of Albuquerque in Bernalillo county;

34. one hundred fifty thousand dollars (\$150,000) to design and construct a quiet railroad crossing at Alameda boulevard and El Pueblo road in Albuquerque in Bernalillo county;

35. one hundred ninety thousand dollars (\$190,000) to plan, design, construct, purchase and install lighting along the parkway from the interstate 25 frontage road to the entrance of the Balloon Fiesta park in Albuquerque in Bernalillo county;

36. two hundred one thousand four hundred eighty-five dollars (\$201,485) to plan, design and construct curb and sidewalk improvements in the Barelás neighborhood and La Media road-Osage road neighborhood in the Atrisco area of Albuquerque in Bernalillo county;

37. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and install pedestrian lighting along Central avenue in the Nob Hill highland area in Albuquerque in Bernalillo county;

38. fifty thousand dollars (\$50,000) to design and construct pedestrian improvements to streets, sidewalks and intersections on Central avenue in the Nob Hill highland area in Albuquerque in Bernalillo county;

39. fifty thousand dollars (\$50,000) to plan, design and construct median improvements in city council district 6, including San Mateo boulevard, in Albuquerque in Bernalillo county;

40. one hundred thousand dollars (\$100,000) to plan, design and construct metropolitan redevelopment in the Clayton heights and Lomas del Cielo areas, including streetscaping, lighting, land acquisition and median improvements, in Albuquerque in Bernalillo county;

41. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to Eldorado crossing at the intersection of Juan Tabo and Montgomery in Albuquerque in Bernalillo county;

42. seventy-five thousand dollars (\$75,000) to plan, design and construct speed humps in the Hodgin area of Albuquerque in Bernalillo county;

43. twenty thousand dollars (\$20,000) to plan, design and construct road, streetscape and landscape improvements, including bus stops, curbs, sidewalks and roundabouts, at the Albuquerque Indian school in Albuquerque in Bernalillo county;

44. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a quiet crossing at the railroad tracks and Claremont avenue for the mid-region council of governments in Albuquerque in Bernalillo county;

45. twenty thousand dollars (\$20,000) to plan, design and construct a quiet crossing at the railroad tracks and Griegos road NW for the mid-region council of governments in the north valley area of Albuquerque in Bernalillo county;

46. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a quiet crossing at the railroad tracks and Indian School road for the mid-region council of governments in Albuquerque in Bernalillo county;

47. one hundred thousand dollars (\$100,000) to plan, design and construct quiet rail crossings in the north valley area of Albuquerque in Bernalillo county;

48. ten thousand dollars (\$10,000) to plan, design and construct improvements, including the purchase of equipment, easements and modern streetcars, to the transit system feeder routes in Albuquerque in Bernalillo county;

49. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to the Atrisco drive SW corridor from Hooper avenue to Central avenue in Albuquerque in Bernalillo county;

50. fifty thousand dollars (\$50,000) to plan, design and construct a pedestrian observation platform on the Central avenue bridge in Albuquerque in Bernalillo county;

51. four hundred thousand dollars (\$400,000) for acquisition of rights of way, planning, designing and construction of roadway drainage and paving improvements to Five Points road from Gatewood avenue to Atrisco drive in the south valley, including sections of this road both inside and outside the city of Albuquerque, in Bernalillo county;

52. two hundred thousand dollars (\$200,000) to plan, design and construct street and drainage improvements, including curb, gutter and sidewalk improvements, to Fortuna road in Albuquerque in Bernalillo county;

53. twenty thousand dollars (\$20,000) to plan, design and construct streetscape improvements on Gold avenue from Yale boulevard to Sycamore street in Albuquerque in Bernalillo county;

54. twenty-five thousand dollars (\$25,000) to plan, design and construct median improvements on Golf Course road from Paseo del Norte to La Orilla road in Albuquerque in Bernalillo county;

55. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and install traffic calming devices and landscaping in house district 11 in Albuquerque in Bernalillo county;

56. three hundred three thousand six hundred ninety-seven dollars (\$303,697) to plan, design and construct landscaping and other improvements on interstate highways 40 and 25 in Albuquerque in Bernalillo county;

57. fifteen thousand dollars (\$15,000) to replace road barriers in La Mesa neighborhood and at Emerson elementary school in Albuquerque in Bernalillo county;

58. two hundred sixty-five thousand dollars (\$265,000) to plan, design and construct sidewalks, bicycle lanes and landscaping on Dr. Martin Luther King, Jr. avenue in Albuquerque in Bernalillo county;

59. seven hundred seventy-five thousand dollars (\$775,000) to acquire land for, plan, design and construct a rail station, parking lot and other transit-related development at Montano boulevard and the railroad tracks in the north valley in Albuquerque in Bernalillo county;

60. ten thousand dollars (\$10,000) to plan, design and construct median improvements, including landscaping, on Montgomery boulevard between Juan Tabo and Tramway boulevard in Albuquerque in Bernalillo county;

61. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including sidewalks and walking trails, on Ouray road from Ladera drive along the south side of the Ladera golf course to El Tesoro Escondido in Albuquerque in Bernalillo county;

62. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and install traffic signals at La Paz boulevard and Paradise boulevard in Albuquerque in Bernalillo county;

63. two hundred thousand dollars (\$200,000) to plan, design and construct improvements, including drainage, to Pear road SW, including sections of this street both inside and outside Albuquerque, and other roads in the Atrisco and Ranchos de Atrisco areas in the south valley in Bernalillo county;

64. fifty thousand dollars (\$50,000) to plan, design and construct pedestrian and intersection improvements at the Rio Grande boulevard and Candelaria road intersection in Albuquerque in Bernalillo county;

65. fifty thousand dollars (\$50,000) to plan, design and construct median improvements on San Mateo boulevard from Central avenue to Gibson boulevard in Albuquerque in Bernalillo county;

66. three hundred thousand dollars (\$300,000) to plan, design and construct improvements, including drainage improvements, to Sunset Gardens road from Atrisco drive east to the Arenal ditch, including sections of this street both inside and outside Albuquerque, in Bernalillo county;

67. twenty-five thousand dollars (\$25,000) to plan, design and construct sound barrier walls in the area of Unser boulevard and Montano boulevard in Albuquerque in Bernalillo county;

68. one hundred thousand dollars (\$100,000) to plan, design and construct gateways at Unser business park in Albuquerque in Bernalillo county;

69. fifty thousand dollars (\$50,000) to plan, design and install landscaping on the west Central median from Unser boulevard after 98th street in Albuquerque in Bernalillo county;

70. twenty thousand dollars (\$20,000) to plan, design and construct street lighting on Zuni road between Louisiana boulevard and Central avenue in Albuquerque in Bernalillo county;

71. two hundred thousand dollars (\$200,000) to plan, design and construct sidewalk improvements in the south Broadway area of Albuquerque in Bernalillo county;

72. ten thousand dollars (\$10,000) to plan, design and construct improvements to the parking areas, including drainage improvements, at Hawthorne elementary school in the Albuquerque public school district in Bernalillo county;

73. twenty thousand dollars (\$20,000) to plan, design, construct, equip and landscape improvements to the parking lot at McCollum elementary school in the Albuquerque public school district in Bernalillo county;

74. sixty thousand dollars (\$60,000) to plan, design and construct a pedestrian and bicycle path adjacent to Rio Grande boulevard in Los Ranchos de Albuquerque in Bernalillo county;

75. seventy-five thousand dollars (\$75,000) to plan, design and construct road improvements, including resurfacing, drainage, traffic signal upgrades, traffic calming devices, striping, nighttime safety marking and traffic sign upgrades, in Los Ranchos de Albuquerque in Bernalillo county;

76. one hundred thousand dollars (\$100,000) to plan, design and construct a pedestrian and bicycle path on the right of way adjacent to Rio Grande boulevard from Paseo del Norte to the bosque pedestrian and bicycle path at Montano road in Los Ranchos de Albuquerque in Bernalillo county;

77. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to Cienega Canyon road, Las Lomas road and Meadow View road, including paving, in the Sandia park area of Bernalillo county;

78. two hundred thousand dollars (\$200,000) to plan, design and construct arroyo bridge crossings in Tijeras in Bernalillo county;

79. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to streets in Reserve in Catron county;

80. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements, including resurfacing, to west McGaffey street from the Roswell relief route to Sycamore avenue in Chaves county;

81. one hundred thousand dollars (\$100,000) to plan, design and construct improvements, including paving, curbs, gutters and drainage, to Durand lane in Dexter in Chaves county;

82. two hundred thousand dollars (\$200,000) to plan, design and construct road improvements, including resurfacing and sidewalk improvements to comply with the Americans with Disabilities Act of 1990, to Monroe street in Dexter in Chaves county;

83. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and improve the airport in Hagerman in Chaves county;

84. five hundred thousand dollars (\$500,000) to plan, design, construct and improve roadway infrastructure improvements at the Pueblo of Laguna in Cibola county;

85. two hundred thousand dollars (\$200,000) to plan, design, construct and improve bridges in Colfax county;

86. three hundred thousand dollars (\$300,000) to plan, design and surface roads and infrastructure in the village plaza in Angel Fire in Colfax county;

87. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to roads in Curry county;

88. eighty thousand dollars (\$80,000) to plan, design and construct improvements to Main street, including beautification, in Melrose in Curry county;

89. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to streets, including drainage and flood control, in Fort Sumner in De Baca county;

90. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements, including drainage structures, to the Abeyta circle in Dona Ana county;

91. sixty-six thousand dollars (\$66,000) to plan, design and construct road and drainage improvements to Alvarez road in Dona Ana county;

92. four hundred seventy-five thousand dollars (\$475,000) to acquire rights of way, plan, design and construct improvements, including drainage, to Arroyo road in the east mesa area of Dona Ana county;

93. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements, including drainage, to Baylor Canyon road in the east mesa area of Dona Ana county;

94. three hundred thousand dollars (\$300,000) to acquire rights of way, plan, design and construct improvements, including drainage improvements, to Blue Topaz road in the east mesa area of Dona Ana county;

95. forty-one thousand nine hundred dollars (\$41,900) to plan, design, construct and acquire rights of way, including drainage, to a second access road into Chamberino in Dona Ana county;

96. twenty-two thousand dollars (\$22,000) to purchase and install school zone flashing beacons, warning lights and signage for schools throughout Dona Ana county;

97. thirty thousand dollars (\$30,000) to plan, design and construct improvements, including drainage, to Edgemont road in Dona Ana county;

98. one hundred thousand dollars (\$100,000) to acquire land for, plan, design and construct flood control in El Camino Real and Armstrong road area in Old Picacho in Dona Ana county;

99. seventy-five thousand dollars (\$75,000) to purchase property for and plan, design and construct road and drainage improvements on Juan Diego street and in the Tortugas area in Dona Ana county;

100. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including drainage, to Killdeer road in Dona Ana county;

101. one hundred thousand dollars (\$100,000) to purchase land, plan, design and construct road and street improvements, including drainage ponds and channels, for East Mesa in Las Cruces in Dona Ana county;

102. one hundred fifty thousand dollars (\$150,000) to plan, design and construct road and bridge improvements to Leasburg Dam road in Dona Ana county;

103. one hundred fifty thousand dollars (\$150,000) to plan, design and construct roads, including paving for Tepache, Requierdos and Rebozo roads, in Milagro in Dona Ana county;

104. one hundred thousand dollars (\$100,000) for a master plan to design drainage and flood structures for the Picacho Hills area in Dona Ana county;

105. fifty thousand dollars (\$50,000) to plan, survey, design and construct a curb and gutter project in the Rasaaf Hills area of Dona Ana county;

106. one hundred ninety-one thousand nine hundred dollars (\$191,900) to plan, design and construct drainage improvements, including right-of-way acquisition, on Tres Sendas road in Dona Ana county;

107. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including drainage structures, to Visnaga road in Dona Ana county;

108. seventy thousand dollars (\$70,000) to plan, design and construct road and drainage improvements to Church street in Anthony in Dona Ana county;

109. ninety-one thousand nine hundred dollars (\$91,900) to acquire land for, plan, design and construct flood and drainage improvements, including a pond, at Berino road and Stern drive in Berino in Dona Ana county;

110. one hundred thousand dollars (\$100,000) to plan, design and construct improvements, including drainage, to Mesilla View drive in Chaparral in Dona Ana county;

111. ninety-seven thousand dollars (\$97,000) to plan, design and construct improvements, including drainage, to east Thorpe road in Dona Ana in Dona Ana county;

112. fifty thousand dollars (\$50,000) to plan, design and construct traffic calming devices for the Mayfield lane traffic improvements project in Dona Ana in Dona Ana county;

113. one hundred ten thousand dollars (\$110,000) to plan, design and construct improvements, including paving, drainage, curbs and gutters, to Navajo trail in Dona Ana in Dona Ana county;

114. one million dollars (\$1,000,000) to plan, design and construct improvements to East Mesa road in Las Cruces in Dona Ana county;

115. twenty-five thousand dollars (\$25,000) to purchase and install bus shelters for the city transit system in Las Cruces in Dona Ana county;

116. one hundred eighty thousand dollars (\$180,000) to plan, design and construct road and arroyo crossing improvements, including flood control, to the Tortugas arroyo crossing in Las Cruces in Dona Ana county;

117. one hundred fifty thousand dollars (\$150,000) to plan, design and construct road improvements, including drainage, to calle de Santiago, calle de Parian, calle Principal, calle Primera and calle de Arroyo in Mesilla in Dona Ana county;

118. one hundred sixty-two thousand dollars (\$162,000) to plan, design and construct a sidewalk on the east side of New Mexico highway 478 in Mesquite in Dona Ana county;

119. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to A and B streets, including asphalt overlay and drainage, in Organ in Dona Ana county;

120. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including drainage, to Tierra Alta road in Organ in Dona Ana county;

121. two hundred thousand dollars (\$200,000) to plan, design, acquire rights of way and construct the Placitas road and sidewalk improvement project in Placitas in Dona Ana county;

122. fifty thousand dollars (\$50,000) to plan, design, acquire rights of way and construct storm drain improvements at the intersection of Jose Serna street and Gregorio Miranda street in Rincon in Dona Ana county;

123. fifty thousand dollars (\$50,000) to plan, design and construct road and drainage improvements, including asphalt repairs, to Kit Carson road in Rincon in Dona Ana county;

124. one hundred twenty thousand dollars (\$120,000) to plan, design, acquire rights of way and construct a detention pond to contain runoff north and west of Victor Duran street in Rincon in Dona Ana county;

125. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct the Angostura road project, including right-of-way acquisition and drainage improvements, in Rodey in Dona Ana county;

126. one hundred thousand dollars (\$100,000) to plan, design, acquire rights of way and construct El Colorado street, including a drainage channel with crossing from Florencio Lopez avenue, in Rodey in Dona Ana county;

127. one million five hundred thousand dollars (\$1,500,000) for a paved access road for the Strauss facility of the Santa Teresa port of entry in Dona Ana county;

128. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct fencing adjacent to county road 605, Dead Cow road, in Eddy county;

129. fifty thousand dollars (\$50,000) to remove and replace the Fisherman's lane bridge, including purchase and installation of a prefabricated bridge, in Eddy county;

130. one hundred thirty thousand dollars (\$130,000) to plan, design and construct landscape and streetscape improvements on Canal street in Carlsbad in Eddy county;

131. three hundred thousand dollars (\$300,000) to plan, design and construct improvements, including milling, overlay, resurfacing, drainage and complete reconstruction, to various roads and streets in Carlsbad in Eddy county;

132. one hundred ninety-five thousand dollars (\$195,000) to plan, design and construct improvements to streets and roads in southern Carlsbad, including Prospect

street, Kircher street, Carver street, Davis street and Etter street, in Carlsbad in Eddy county;

133. one hundred thousand dollars (\$100,000) to plan, design and construct road improvements at the entrance of the youth sports complex in Carlsbad in Eddy county;

134. twelve thousand dollars (\$12,000) to plan, design, construct and purchase bus shelters and bus stop signs in Grant county;

135. one hundred thousand dollars (\$100,000) to plan, design and construct road and drainage improvements to roads and streets in Hurley, including Diaz avenue and Carrasco avenue, in Grant county;

136. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to roads and highways in Harding county;

137. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to roads and highways in Roy in Harding county;

138. one hundred thousand dollars (\$100,000) to plan, design and construct improvements, including pavement rehabilitation, to streets in Lordsburg in Hidalgo county;

139. six hundred fifty thousand dollars (\$650,000) to plan, design and construct an airport terminal building for the Lea county regional airport in Lea county;

140. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including chip sealing, to streets in Capitan in Lincoln county;

141. two million dollars (\$2,000,000) to plan, design and construct improvements to county road 501 in Los Alamos county;

142. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to Chino Loop road and Gamerco subdivision roads in McKinley county;

143. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to county road 1 in McKinley county;

144. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to county road 19 in McKinley county;

145. fifty thousand dollars (\$50,000) to plan, design and construct improvements to county road 4 in McKinley county;

146. one hundred seventy-five thousand dollars (\$175,000) to plan, design and construct improvements to county road 6 in McKinley county;

147. fifty thousand dollars (\$50,000) to plan, design and construct improvements to Pinehaven road in McKinley county;

148. fifty thousand dollars (\$50,000) to plan, design and construct improvements to Livingston road in the Bread Springs chapter of the Navajo Nation in McKinley county;

149. four hundred thousand dollars (\$400,000) to acquire rights of way for and plan, design and construct a grade separation on Allison road over the Burlington Northern Santa Fe railway to connect the commercial area north of interstate 40 to the downtown area in Gallup in McKinley county;

150. four hundred thousand dollars (\$400,000) to acquire rights of way for, plan, design, construct and improve Allison road in Gallup in McKinley county;

151. one hundred thousand dollars (\$100,000) to plan, design and construct a public access road for the Mariano Lake chapter of the Navajo Nation in McKinley county;

152. one hundred thousand dollars (\$100,000) to plan, design and construct a road to the high school in the Ramah water and sanitation district in McKinley county;

153. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements, including installing culverts and purchasing gravel, to road number 9653 in the Tohatchi chapter of the Navajo Nation in McKinley county;

154. fifty-five thousand dollars (\$55,000) to plan, design, construct and purchase equipment, bus shelters, benches and vehicles to comply with the Americans with Disabilities Act of 1990 for the north central regional transit district in Los Alamos, Rio Arriba and Santa Fe counties;

155. twenty-five thousand dollars (\$25,000) to plan, design and construct the north-south corridor loop road connecting interstate 40 and interstate 25 via United States highway 550 near Rio Rancho and continuing south from interstate 40 to interstate 25 via New Mexico highway 6 in Sandoval, Bernalillo, Valencia and Cibola counties;

156. forty-three thousand two hundred eighty-five dollars (\$43,285) to construct ramps that comply with the requirements of the Americans with Disabilities Act of 1990 along various city roads in Alamogordo in Otero county;

157. five hundred thousand dollars (\$500,000) to plan, design and construct traffic signals in Alamogordo in Otero county;

158. four hundred thousand dollars (\$400,000) to plan, design and construct improvements, including paving, to the double penetration roadway from Desert Lakes road to Martin Luther King, Jr. drive in Alamogordo in Otero county;

159. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to First street, including eliminating a curve, adding lanes, paving shoulders and building a railroad crossing, in Alamogordo in Otero county;

160. fifty thousand dollars (\$50,000) to plan, design and restore the Mexican trestle in Cloudcroft in Otero county;

161. thirty thousand dollars (\$30,000) to plan, design and construct road and drainage improvements to county road 61 in Rio Arriba county;

162. forty thousand dollars (\$40,000) to plan, design and construct road and drainage improvements to county road 92, including culverts, paving and base course, in Rio Arriba county;

163. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a water crossing structure on county road 126 across arroyo de los Barrancos in La Mesilla in Rio Arriba county;

164. forty thousand dollars (\$40,000) to plan, design and construct improvements to Rio del Rito, including culverts and construction of road base, in Medanales in Rio Arriba county;

165. one hundred thousand dollars (\$100,000) to plan, design and construct road improvements, including chip seal, to the entrance to the Melrose bombing range in Roosevelt county;

166. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to roads and highways in Roosevelt county;

167. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to Juniper street from avenue K to avenue N in Portales in Roosevelt county;

168. two hundred fifty thousand dollars (\$250,000) to plan, design and construct road and highway improvements, including pavement, curbs, gutters and sidewalks, in Portales in Roosevelt county;

169. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and improve the county road 6100 bridge in San Juan county;

170. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to series 3000 roads in San Juan county;

171. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to series 3000 and 5000 roads in San Juan county;

172. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to series 4000 roads in San Juan county;

173. three hundred sixty-five thousand dollars (\$365,000) to purchase and install a computerized traffic control system in Farmington in San Juan county;

174. one hundred thousand dollars (\$100,000) to plan, design and construct improvements, including resurfacing and purchase of rights of way, to Forest Lake road in the Naschitti chapter of the Navajo Nation in San Juan county;

175. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including paving and drainage, to La Joya del Padre county road in San Miguel county;

176. fifty thousand dollars (\$50,000) to plan, design and construct road improvements in Las Dispensas area in San Miguel county;

177. thirty thousand dollars (\$30,000) to plan, design and construct improvements to county road A-19-A in San Miguel county;

178. thirty thousand dollars (\$30,000) to plan, design and construct road and drainage improvements to county road A-20 in Ojos Frios in San Miguel county;

179. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to county road B-27 in San Miguel county;

180. sixty thousand dollars (\$60,000) to plan, design and construct improvements, including paving, to county road B-49 in San Miguel county;

181. ten thousand dollars (\$10,000) to plan, design and construct improvements to county road C-23 in San Miguel county;

182. ten thousand dollars (\$10,000) to plan, design and construct improvements to county road C-56-B in San Miguel county;

183. eighty thousand dollars (\$80,000) to plan, design and construct road and drainage improvements to county roads A-2 and A-3 in San Miguel county;

184. fifty thousand dollars (\$50,000) to plan, design and construct improvements to county roads A-30 and A-4-A, including extending lanes, in Pendaries in San Miguel county;

185. seventy-five thousand dollars (\$75,000) to plan, design and construct road and drainage improvements within the Country Acres subdivision in San Miguel county;

186. fifty thousand dollars (\$50,000) to construct a hangar bay at the airport in Las Vegas in San Miguel county;

187. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including drainage and resurfacing, to county road 11 in the Cuba area in Sandoval county;

188. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including drainage, to South Hill road in Bernalillo in Sandoval county;

189. one hundred thousand dollars (\$100,000) to plan, design and construct improvements, including resurfacing and drainage, to roads and highways in Cochiti Lake in Sandoval county;

190. one hundred thousand dollars (\$100,000) to plan, design and construct the emergency access A intersection of New Mexico highway 528 and Northern boulevard in Corrales in Sandoval county;

191. two hundred seventy-five thousand dollars (\$275,000) to plan, design and construct road and drainage improvements in Corrales in Sandoval county;

192. seventy-five thousand dollars (\$75,000) to plan, design and construct trails and safe routes to school in Corrales in Sandoval county;

193. one hundred seventy-five thousand dollars (\$175,000) to plan, design and construct Loma Larga road in Corrales in Sandoval county;

194. one hundred thousand dollars (\$100,000) to plan, design and construct a traffic signal at the intersection of New Mexico highway 528 and Northern boulevard in Corrales in Sandoval county;

195. one hundred thousand dollars (\$100,000) to plan, design and construct a storm surface water control drainage system along state road 4 in Jemez Springs in Sandoval county;

196. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to Camino de Las Huertas in the Placitas area of Sandoval county;

197. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to Lincoln avenue between Springer drive and Chayote in Rio Rancho in Sandoval county;

198. two hundred thousand dollars (\$200,000) to plan, design and construct improvements, including curbing and sidewalks, on Tulip street from the intersection of Lisbon avenue and Tulip street to Abrazo road and then east on Abrazo road to Unser boulevard in Rio Rancho in Sandoval county;

199. one hundred thirty thousand dollars (\$130,000) to plan, design and construct improvements to streets at the Pueblo of Sandia in Sandoval county;

200. twenty-five thousand dollars (\$25,000) to acquire land for and plan, design and construct traffic control devices and a roundabout at the intersection of Henry Lynch road and Agua Fria road in the Agua Fria area of Santa Fe county;

201. twenty-five thousand dollars (\$25,000) to plan, design and construct road and drainage improvements, including paving, to La Barbaria road, county road 67-F, in Santa Fe county;

202. thirty thousand dollars (\$30,000) to plan, design and construct improvements to Pine road in Santa Fe county;

203. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to Ravens Ridge road, county road 67-G, in Santa Fe county;

204. fifty thousand dollars (\$50,000) to plan, design and construct an extension of county road 55-A, including drainage, grading, base course, paving, signage and related equipment, in Santa Fe county;

205. forty thousand dollars (\$40,000) to plan, design and construct improvements to calle Victoriano in Santa Fe county;

206. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct road improvements, including base course, in the Eldorado area of Santa Fe county;

207. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to dirt roads in Eldorado at Santa Fe, including units 1, 2 and 3, in Santa Fe county;

208. one hundred thousand dollars (\$100,000) to plan, design and construct improvements, including paving, to Cerro del Alamo road, Sunset road and Sunrise road as part of the C.R. Mayfield road project in La Cienega in Santa Fe county;

209. one hundred thousand dollars (\$100,000) to plan, design and construct road improvements, including drainage improvements, on Nancy's trail to Sunset road in La Cienega in Santa Fe county;

210. thirty-nine thousand two hundred eighty-five dollars (\$39,285) to plan, design and construct road and drainage improvements, including grading and paving, to Sunrise road in La Cienega in Santa Fe county;

211. seventy-five thousand dollars (\$75,000) to plan, design and construct road improvements, including access, to Airport road from Cerrillos road to New Mexico highway 599 in Santa Fe in Santa Fe county;

212. twenty thousand dollars (\$20,000) to plan, design and construct a guardrail at the intersection of Zia and Rodeo roads in Santa Fe in Santa Fe county;

213. five hundred twenty-five thousand dollars (\$525,000) to plan, design and construct improvements to School of Mines road in Socorro in Socorro county;

214. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to CB-115 road in district 4 in Taos county;

215. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to Estes road, including the extension of the water and wastewater lines and improvements to the pedestrian walkway, in Taos in Taos county;

216. fifty thousand dollars (\$50,000) to map and replace street lighting to comply with night sky protection ordinances in Taos in Taos county;

217. four hundred thousand dollars (\$400,000) to plan, design and construct improvements to roads in Torrance county;

218. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct improvements, including resurfacing, to roads in Union county;

219. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to streets in Clayton in Union county;

220. seventy-five thousand dollars (\$75,000) to plan, design and construct road improvements, including paving, to Don Ramon road in Valencia county;

221. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including paving and drainage, to roads in the Highland Meadows area of Valencia county;

222. one hundred thousand dollars (\$100,000) to plan, design and construct road improvements, including paving, in Highland Meadows in Valencia county;

223. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements, including paving, to Kendrick road in Valencia county;

224. one hundred thousand dollars (\$100,000) to plan, design and construct street and drainage improvements to Meadow Lake road in Valencia county;

225. one hundred thousand dollars (\$100,000) to plan, design, construct and install traffic lights at the intersection of New Mexico highway 304 and Golf Course road in Valencia county;

226. twenty thousand dollars (\$20,000) to plan, design and construct road improvements, including paving and drainage, to north Rio del Oro road in Valencia county;

227. fifty thousand dollars (\$50,000) to plan, design and construct improvements to county roads in house district 7 and county commission district 4, including Baca lane, Jaramillo road and Rio Communities boulevard, in Valencia county;

228. one hundred seventy-five thousand dollars (\$175,000) to plan, design and construct improvements, including an extension, to Christopher road in Belen in Valencia county; and

229. six hundred twenty-five thousand dollars (\$625,000) to plan, design and construct improvements to New Mexico highway 6 in Los Lunas in Valencia county.

## **Chapter 42 Section 76 Laws 2007**

Section 76. HIGHER EDUCATION DEPARTMENT PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the higher education department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. twenty thousand dollars (\$20,000) for a study concerning energy usage and alternatives to decrease energy usage for central New Mexico community college in Albuquerque in Bernalillo county;

2. one hundred sixty-nine thousand three hundred dollars (\$169,300) to plan, design and construct improvements and replacement to the roof for the L building at central New Mexico community college in Albuquerque in Bernalillo county;

3. fifty thousand dollars (\$50,000) to renovate the Forrester building at Luna community college in Springer in Colfax county;

4. seventy-five thousand dollars (\$75,000) to plan, design and construct electrical improvements to the cosmetology department at Clovis community college in Clovis in Curry county;

5. thirty-five thousand dollars (\$35,000) to purchase equipment for the emergency medical services program at Clovis community college in Clovis in Curry county;

6. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the Mesa theater at Clovis community college in Clovis in Curry county;

7. fifty thousand dollars (\$50,000) to renovate the swimming pool at Clovis community college in Clovis in Curry county;

8. sixty thousand dollars (\$60,000) to purchase and install information technology, including related equipment and furniture, for New Mexico junior college in Hobbs in Lea county;

9. three hundred twenty thousand dollars (\$320,000) to plan, design, construct, equip and furnish locker room facilities and other improvements to the baseball field for New Mexico junior college in Hobbs in Lea county;

10. one hundred thousand dollars (\$100,000) to plan, design, construct and equip an oil and gas training ground and facility at New Mexico junior college in Hobbs in Lea county;

11. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish a building for the Mora branch of Luna community college in Mora in Mora county;

12. twenty-five thousand dollars (\$25,000) to purchase and install equipment and furnishings for the Mora branch of Luna community college in Mora in Mora county;

13. twenty-five thousand dollars (\$25,000) to purchase land for the Mora branch of Luna community college in Mora county;

14. three hundred thousand dollars (\$300,000) to develop the site for and plan, design, construct, equip and furnish the North American wind research and training center at Mesalands community college in Tucumcari in Quay county;

15. forty-six thousand six hundred ninety-seven dollars (\$46,697) to purchase and install a wind turbine for the North American wind research and training center at Mesalands community college in Tucumcari in Quay county;

16. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish the creative arts center at San Juan college in Farmington in San Juan county;

17. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish the outdoor learning center at San Juan college in Farmington in San Juan county;

18. twenty-five thousand dollars (\$25,000) to purchase baseball equipment for Luna community college in Las Vegas in San Miguel county;

19. thirty thousand dollars (\$30,000) to plan, design and construct improvements to King stadium at Luna community college in Las Vegas in San Miguel county;

20. seven hundred fifty thousand dollars (\$750,000) to develop the site for and construct a multipurpose building and educational center at Luna community college in Las Vegas in San Miguel county;

21. fifty thousand dollars (\$50,000) to acquire land and a structure for a multiuse cultural center for the casa de cultura at Luna community college in Las Vegas in San Miguel county;

22. one hundred thousand dollars (\$100,000) to plan, design and renovate the Representative Nick Salazar educational center at Luna community college in Las Vegas in San Miguel county;

23. twenty-five thousand dollars (\$25,000) to purchase softball equipment for Luna community college in Las Vegas in San Miguel county;

24. one hundred thousand dollars (\$100,000) to purchase and equip vehicles for Luna community college in Las Vegas in San Miguel county;

25. sixty thousand dollars (\$60,000) to improve and equip the culinary arts facility and cafeteria at Santa Fe community college in Santa Fe in Santa Fe county;

26. fifty thousand dollars (\$50,000) to purchase film and video equipment for Santa Fe community college in Santa Fe in Santa Fe county;

27. two hundred thousand dollars (\$200,000) to plan, design, construct and equip a health and science building at Santa Fe community college in Santa Fe in Santa Fe county;

28. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment and furniture, for Santa Fe community college in Santa Fe in Santa Fe county;

29. three hundred thousand dollars (\$300,000) to plan, design, construct and equip la familia dental clinic and student health center at Santa Fe community college in Santa Fe in Santa Fe county; and

30. twenty-five thousand dollars (\$25,000) to design and construct broadcast studios and facilities for KSFR public radio station at Santa Fe community college in Santa Fe in Santa Fe county.

## **Chapter 42 Section 77 Laws 2007**

Section 77. EASTERN NEW MEXICO UNIVERSITY PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of eastern New Mexico university for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish an addition to the child development center at the Roswell branch of eastern New Mexico university in Chaves county;

2. thirty thousand dollars (\$30,000) to equip and furnish the media arts center at the Roswell branch of eastern New Mexico university in Chaves county;

3. two hundred seventy-five thousand dollars (\$275,000) to purchase and install media arts equipment at the Roswell branch of eastern New Mexico university in Chaves county;

4. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish the national flight test center for the Roswell branch of eastern New Mexico university in Roswell in Chaves county;

5. one hundred thousand dollars (\$100,000) to purchase and install information technology, including related equipment and furniture, at the national flight test center at the Roswell branch of eastern New Mexico university in Chaves county;

6. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment and furniture, for a records and archives system at the Roswell branch of eastern New Mexico university in Chaves county;

7. one hundred ninety thousand dollars (\$190,000) to purchase and install science and health laboratory equipment at the Roswell branch of eastern New Mexico university in Chaves county;

8. seventy-five thousand dollars (\$75,000) to plan, design and construct an agricultural facility at eastern New Mexico university in Portales in Roosevelt county;

9. two hundred twenty-five thousand dollars (\$225,000) to purchase and install digital production equipment for the conversion from analog to digital broadcasting at eastern New Mexico university in Portales in Roosevelt county;

10. one hundred twenty thousand dollars (\$120,000) to renovate and purchase and install equipment for the forensic anthropology laboratory at eastern New Mexico university in Portales in Roosevelt county;

11. one hundred thousand dollars (\$100,000) to purchase and install television editing equipment for KENW-TV at eastern New Mexico university in Portales in Roosevelt county;

12. eighty thousand dollars (\$80,000) to purchase and install pianos for student use in the department of music at eastern New Mexico university in Portales in Roosevelt county;

13. ten thousand dollars (\$10,000) to purchase equipment for the safe ride program at eastern New Mexico university in Portales in Roosevelt county;

14. twenty-five thousand dollars (\$25,000) to purchase and install scientific instructional equipment in the science building at eastern New Mexico university in Portales in Roosevelt county; and

15. one hundred sixty-five thousand dollars (\$165,000) to purchase and install equipment for the speech and hearing rehabilitation outreach center at eastern New Mexico university in Portales in Roosevelt county.

## **Chapter 42 Section 78 Laws 2007**

Section 78. NEW MEXICO HIGHLANDS UNIVERSITY PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of New Mexico highlands university for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. two hundred thousand dollars (\$200,000) to plan, design, construct and equip a pro shop, maintenance and storage facility and to remodel the clubhouse at New Mexico highlands university golf course in Las Vegas in San Miguel county;

2. thirty thousand dollars (\$30,000) to plan, design and construct a hall of honor at New Mexico highlands university in Las Vegas in San Miguel county;

3. one hundred thousand dollars (\$100,000) to develop a master plan for New Mexico highlands university in Las Vegas in San Miguel county;

4. fifty thousand dollars (\$50,000) to purchase a multiuse facility for New Mexico highlands university in Las Vegas in San Miguel county;

5. one million dollars (\$1,000,000) to plan, design, construct and equip the student union and services center at New Mexico highlands university in Las Vegas in San Miguel county;

6. three hundred twenty-four thousand two hundred eighty-five dollars (\$324,285) to renovate, including necessary improvements and replacements, the Wilson complex at New Mexico highlands university in Las Vegas in San Miguel county; and

7. one hundred thousand dollars (\$100,000) for equipment and improvements for the wrestling program at New Mexico highlands university in Las Vegas in San Miguel county.

## **Chapter 42 Section 79 Laws 2007**

Section 79. NEW MEXICO MILITARY INSTITUTE PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of New Mexico military institute for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. three hundred thousand dollars (\$300,000) to plan, design, construct, equip and furnish a design center for the first tee program of the Pecos Valley learning center at New Mexico military institute in Roswell in Chaves county; and
2. one hundred fifty thousand dollars (\$150,000) to purchase and install lighting on Stapp field at New Mexico military institute in Roswell in Chaves county.

## **Chapter 42 Section 80 Laws 2007**

Section 80. NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of New Mexico institute of mining and technology for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. two hundred seventy-five thousand dollars (\$275,000) to develop the site for and plan, design, construct, equip and furnish the geology facility at New Mexico institute of mining and technology in Socorro in Socorro county;
2. one hundred thousand dollars (\$100,000) for improvements to the golf course at New Mexico institute of mining and technology in Socorro in Socorro county;
3. one hundred thousand dollars (\$100,000) to purchase and install information technology and cyber-security, including related equipment and furniture, for New Mexico institute of mining and technology in Socorro in Socorro county;
4. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish a wellness center at New Mexico institute of mining and technology in Socorro in Socorro county; and
5. sixty thousand dollars (\$60,000) to purchase and install information technology, including related equipment and furniture, at universities and school districts statewide participating in the New Mexico mathematics, engineering and science achievement program through the New Mexico institute of mining and technology.

## **Chapter 42 Section 81 Laws 2007**

Section 81. NEW MEXICO STATE UNIVERSITY PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of

regents of New Mexico state university for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements, including enlargement of the dams, for la Union soil and water conservation district in Dona Ana county;
2. twenty thousand dollars (\$20,000) to plan, design and reconstruct the flood control levee system in la Union soil and water conservation district in Dona Ana county;
3. fifty thousand dollars (\$50,000) to plan, design and construct irrigation and to landscape the Fabian Garcia horticultural research garden at New Mexico state university in Las Cruces in Dona Ana county;
4. one hundred thousand dollars (\$100,000) to purchase and install food processing equipment for the marketing division of the New Mexico department of agriculture in Las Cruces in Dona Ana county;
5. two hundred thousand dollars (\$200,000) to renovate and to construct and install improvements to Aggie memorial stadium, including work spaces, at New Mexico state university in Las Cruces in Dona Ana county;
6. four hundred eighty thousand dollars (\$480,000) to plan, design, construct and equip an arts complex at New Mexico state university in Las Cruces in Dona Ana county;
7. sixty thousand dollars (\$60,000) to improve the baseball complex and surrounding area at New Mexico state university in Las Cruces in Dona Ana county;
8. forty thousand dollars (\$40,000) to purchase and install a scoreboard, including a message board, at the baseball field at New Mexico state university in Las Cruces in Dona Ana county;
9. one hundred thousand dollars (\$100,000) to purchase and install equipment for the college assistance migrant program at New Mexico state university in Las Cruces in Dona Ana county;
10. forty-two thousand dollars (\$42,000) to purchase and install chemistry laboratory equipment for the college of arts and sciences at New Mexico state university in Las Cruces in Dona Ana county;
11. fifty thousand dollars (\$50,000) to purchase cryotherapy systems for the sports medicine program at New Mexico state university in Las Cruces in Dona Ana county;

12. ninety-one thousand nine hundred dollars (\$91,900) to plan and design an indoor arena for the equestrian team at New Mexico state university in Las Cruces in Dona Ana county;

13. thirty thousand dollars (\$30,000) to purchase information technology and equipment for the football program at New Mexico state university in Las Cruces in Dona Ana county;

14. forty-one thousand dollars (\$41,000) to restore the fresco mural at the Foster hall entryway at New Mexico state university in Las Cruces in Dona Ana county;

15. seventy-five thousand dollars (\$75,000) to plan, design, construct and equip a bathroom at the golf course at New Mexico state university in Las Cruces in Dona Ana county;

16. twenty-nine thousand two hundred eighty-five dollars (\$29,285) to acquire Durango and Zacatecas historical records microfilm for the library archives at New Mexico state university in Las Cruces in Dona Ana county;

17. four hundred fifty thousand dollars (\$450,000) to construct and equip motion capture, gaming laboratory, soundstage and set construction workshop facilities at New Mexico state university in Las Cruces in Dona Ana county;

18. one hundred fifteen thousand dollars (\$115,000) to purchase and install cardiovascular equipment at the Pan American center at New Mexico state university in Las Cruces in Dona Ana county;

19. fifty thousand dollars (\$50,000) to renovate facilities and purchase equipment for the rodeo team at New Mexico state university in Las Cruces in Dona Ana county;

20. three million dollars (\$3,000,000) to purchase and install scoreboards at New Mexico state university in Las Cruces in Dona Ana county;

21. sixty thousand dollars (\$60,000) to plan, design and construct a short-game practice area at the golf course at New Mexico state university in Las Cruces in Dona Ana county;

22. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a sound stage for the media arts center at New Mexico state university in Las Cruces in Dona Ana county;

23. eighty-five thousand dollars (\$85,000) to construct, purchase and install fitness equipment at the student activity center at New Mexico state university in Las Cruces in Dona Ana county;

24. sixty thousand dollars (\$60,000) to plan, design, construct, equip and furnish multipurpose rooms, including a headhouse, greenhouse, lath house, walk-in cooler and drip system, for the sustainable agriculture program at New Mexico state university in Las Cruces in Dona Ana county;

25. forty-five thousand dollars (\$45,000) to purchase and equip tractors for the sustainable agriculture program at New Mexico state university in Las Cruces in Dona Ana county;

26. fifty-one thousand dollars (\$51,000) to purchase equipment for the dental hygiene clinic at the Dona Ana branch community college campus of New Mexico state university in Las Cruces in Dona Ana county;

27. twenty-five thousand dollars (\$25,000) for architectural design and engineering of an allied health facility at the Carlsbad branch of New Mexico state university in Eddy county;

28. sixteen thousand dollars (\$16,000) to purchase and install information technology, including related equipment and furniture, for the Carlsbad branch of New Mexico state university in Eddy county;

29. forty thousand dollars (\$40,000) to purchase a baby mannequin, including related technology, for the Carlsbad branch of New Mexico state university in Eddy county;

30. five hundred twenty-five thousand dollars (\$525,000) to plan, design, construct, equip and furnish the southwest center for rangeland sustainability, including the purchase and installation of information technology, in Lincoln county;

31. six hundred ninety thousand dollars (\$690,000) to conduct a comprehensive hydrogeologic study of the Sacramento mountains for the Otero soil and water conservation district in Otero, Lincoln and Chaves counties;

32. one hundred seventy-five thousand dollars (\$175,000) to design and construct phase 1 of the advanced business and technology education center at the Alamogordo branch of New Mexico state university in Otero county;

33. one hundred fifty thousand dollars (\$150,000) to plan, design and construct upgrades to the Santa Cruz site 1 flood control dam in the Santa Fe-Pojoaque soil and water conservation district in Rio Arriba county;

34. twenty-five thousand dollars (\$25,000) to purchase equipment for the San Juan soil and water conservation district in San Juan county;

35. one hundred thousand dollars (\$100,000) to purchase and install agricultural equipment at the agricultural science center of New Mexico state university in Farmington in San Juan county;

36. five thousand five hundred dollars (\$5,500) to purchase and install information technology, including related equipment and furniture, for the distance education programs of the cooperative extension and agricultural experiment stations of New Mexico state university and its branches;

37. two hundred thousand dollars (\$200,000) to plan, design and construct a multipurpose facility for the Claunch-Pinto soil and water conservation district in Torrance county;

38. three hundred thirty thousand dollars (\$330,000) to plan, design, construct, equip and furnish a natural resource educational facility for the east Torrance soil and water conservation district in Torrance county;

39. one hundred sixty thousand dollars (\$160,000) to plan, design, construct, equip and furnish the livestock research center feed mill at New Mexico state university in Clayton in Union county; and

40. three hundred eighty thousand dollars (\$380,000) to plan, design and construct a building and site infrastructure for the Whitfield wildlife conservation area visitor and education facility in the Valencia soil and water conservation district in Valencia county.

## **Chapter 42 Section 82 Laws 2007**

Section 82. NORTHERN NEW MEXICO STATE SCHOOL PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of northern New Mexico state school for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. four hundred fifty-five thousand dollars (\$455,000) to acquire land for, make site improvements for, plan, design, construct, equip and furnish a community center campus for Las Cumbres community services at the Espanola campus of northern New Mexico state school in Rio Arriba county;

2. one hundred thousand dollars (\$100,000) to plan, design and construct an auto technology building at the Espanola campus of northern New Mexico state school in Rio Arriba county; and

3. fifty thousand dollars (\$50,000) to plan, design and construct an expansion to the bookstore at northern New Mexico state school in Espanola in Rio Arriba county.

## Chapter 42 Section 83 Laws 2007

Section 83. UNIVERSITY OF NEW MEXICO PROJECTS--GENERAL FUND.--  
The following amounts are appropriated from the general fund to the board of regents of the university of New Mexico for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. one hundred twenty-five thousand dollars (\$125,000) to acquire the archive papers of the Black Panther party for the university of New Mexico office on African American affairs in Albuquerque in Bernalillo county;
2. ten thousand dollars (\$10,000) to purchase and install distance learning equipment at the Charlie Morrissey research center for the department of African American studies at the university of New Mexico in Albuquerque in Bernalillo county;
3. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip and furnish an alumni center at the university of New Mexico in Albuquerque in Bernalillo county;
4. one hundred thousand dollars (\$100,000) to plan and design the physical connection between the Burlington Northern railroad yards, the Albuquerque zoo, the Hispanic cultural center and other areas in the Barelmas neighborhood of Albuquerque in Bernalillo county;
5. one million dollars (\$1,000,000) to plan, design and construct the renovation and expansion of the biology building at the university of New Mexico in Albuquerque in Bernalillo county;
6. four hundred thousand dollars (\$400,000) to purchase and install equipment for the biomedical engineering program at the university of New Mexico in Albuquerque in Bernalillo county;
7. two hundred thousand dollars (\$200,000) to purchase buses for the university of New Mexico in Albuquerque in Bernalillo county;
8. thirty thousand dollars (\$30,000) to purchase and install equipment at the Carlisle gymnasium at the university of New Mexico in Albuquerque in Bernalillo county;
9. two hundred thousand dollars (\$200,000) to equip and furnish the Centennial engineering center at the school of engineering at the university of New Mexico in Albuquerque in Bernalillo county;
10. twenty-five thousand dollars (\$25,000) to purchase equipment for the center for Latin American resources and outreach at the university of New Mexico in Albuquerque in Bernalillo county;

11. one hundred thousand dollars (\$100,000) to purchase and install information technology, including related equipment and furniture, for the e-mercado at the university of New Mexico in Albuquerque in Bernalillo county for use statewide;

12. ten thousand dollars (\$10,000) to plan, design and construct a fire suppression and detection system to comply with the life safety code at the university of New Mexico in Albuquerque in Bernalillo county;

13. six hundred four thousand two hundred eighty-five dollars (\$604,285) to plan, design and construct improvements to the golf course clubhouse at the university of New Mexico in Albuquerque in Bernalillo county;

14. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements to the health education building at the university of New Mexico in Albuquerque in Bernalillo county;

15. fifty thousand dollars (\$50,000) to purchase and install patient clinical equipment, including components of the picture archival communications system, at the health sciences center at the university of New Mexico in Albuquerque in Bernalillo county;

16. one hundred thousand dollars (\$100,000) to purchase and install telemedicine equipment at the university of New Mexico hospital in Albuquerque in Bernalillo county;

17. four hundred fifty thousand dollars (\$450,000) to construct an indoor football practice field, including purchase and installation of equipment and furniture, for the athletic department at the university of New Mexico in Albuquerque in Bernalillo county;

18. two hundred thousand dollars (\$200,000) to plan, design and construct an indoor golf hitting area at the south course at the university of New Mexico in Albuquerque in Bernalillo county;

19. seven hundred fifty thousand dollars (\$750,000) to plan, design, construct and equip an indoor soccer facility at the university of New Mexico in Albuquerque in Bernalillo county;

20. ten thousand dollars (\$10,000) to purchase and install information technology, including related equipment and furniture, at the university of New Mexico in Albuquerque in Bernalillo county;

21. ten thousand dollars (\$10,000) to plan and design an addition to the international center at the university of New Mexico in Albuquerque in Bernalillo county;

22. two hundred forty thousand dollars (\$240,000) to plan, design, purchase and install lighting at Johnson field at the university of New Mexico in Albuquerque in Bernalillo county;

23. fifty thousand dollars (\$50,000) to purchase and install information technology and acquisitions for the school of law library at the university of New Mexico in Albuquerque in Bernalillo county;

24. one hundred thirty-one thousand six hundred ninety-seven dollars (\$131,697) to plan, design and construct shelving throughout the library system at the university of New Mexico in Albuquerque in Bernalillo county;

25. three hundred ten thousand dollars (\$310,000) to plan, design, construct, equip and install a manufacturing training and technology center clean room at the university of New Mexico in Albuquerque in Bernalillo county;

26. ten thousand dollars (\$10,000) for constructing, purchasing and installing equipment for the manufacturing training and technology center clean room at the university of New Mexico in Albuquerque in Bernalillo county;

27. thirty thousand dollars (\$30,000) to plan and design the Native American learning center at the university of New Mexico in Albuquerque in Bernalillo county;

28. two million dollars (\$2,000,000) to plan, design, construct, renovate and equip the arena at the university of New Mexico in Albuquerque in Bernalillo county;

29. fifty thousand dollars (\$50,000) to purchase seating for Popejoy hall at the university of New Mexico in Albuquerque in Bernalillo county;

30. one hundred fifty thousand dollars (\$150,000) to plan, design and construct and equip an integrative medicine and intercultural prevention and wellness center for the university of New Mexico in Albuquerque in Bernalillo county;

31. one hundred thousand six hundred ninety-seven dollars (\$100,697) to plan, design, construct and equip the team room at the Craig Robertson soccer complex at the university of New Mexico in Albuquerque in Bernalillo county;

32. five hundred eighty-five thousand dollars (\$585,000) to construct improvements, including restrooms, concession facilities and drainage control, to the softball complex at the university of New Mexico in Albuquerque in Bernalillo county;

33. one hundred thousand dollars (\$100,000) to furnish the surgical multispecialty clinic at the university of New Mexico in Albuquerque in Bernalillo county;

34. one hundred fifty thousand dollars (\$150,000) to purchase and install equipment at the Tamarind institute at the university of New Mexico in Albuquerque in Bernalillo county;

35. one hundred fifty-five thousand dollars (\$155,000) to plan, design and construct a facility for the Tamarind institute at the university of New Mexico in Albuquerque in Bernalillo county;

36. seventy-five thousand dollars (\$75,000) for equipment and a cart for the Tow Diehm trainers' room at the university of New Mexico in Albuquerque in Bernalillo county;

37. thirty thousand dollars (\$30,000) to purchase and install equipment in the weight room in the Tow Diehm athletic facility at the university of New Mexico in Albuquerque in Bernalillo county;

38. one hundred fifty thousand dollars (\$150,000) to plan, design, purchase, acquire and construct weight training equipment and facilities for the women's basketball program and facilities and equipment to be used by both the women's and men's basketball programs at the university of New Mexico in Albuquerque in Bernalillo county;

39. one hundred thousand dollars (\$100,000) to purchase and install information technology and digital media technology, including related equipment and furniture, for the Gallup branch of the university of New Mexico in Gallup in McKinley county;

40. fifty thousand dollars (\$50,000) to purchase equipment for the mechanical and industrial technician program at the Gallup branch of the university of New Mexico in McKinley county;

41. one hundred sixty thousand dollars (\$160,000) to plan, design and construct a technology center and classroom building at the Gallup branch of the university of New Mexico in McKinley county;

42. fifty thousand dollars (\$50,000) to purchase dental equipment for use by community treatment centers in Los Lunas and Albuquerque in Sandoval and Bernalillo counties;

43. three hundred seventy thousand dollars (\$370,000) to plan, design, construct and equip a tower and broadcast facility for the KUNM radio station in the Espanola valley in Rio Arriba county;

44. two hundred twenty-seven thousand three hundred ninety-four dollars (\$227,394) to purchase and install information technology and plan, design, construct, equip and furnish an addition to the university of New Mexico Sevilleta research and education center in Socorro in Socorro county;

45. one million dollars (\$1,000,000) to acquire national scale infrastructure for research and experimentation in networking technologies and applications for the Lambda rail project;

46. six hundred fifteen thousand dollars (\$615,000) to plan, design and construct an expansion to the university of New Mexico Harwood museum in Taos in Taos county; and

47. one hundred thousand dollars (\$100,000) to plan, design, construct and equip sewer, roadway, parking, fire suppression, utility and security system improvements at the Taos branch of the university of New Mexico in Taos county.

## **Chapter 42 Section 84 Laws 2007**

Section 84. WESTERN NEW MEXICO UNIVERSITY PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of western New Mexico university for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish improvements to athletic facilities at western New Mexico university in Silver City in Grant county;

2. twenty-five thousand dollars (\$25,000) to purchase and install equipment in the athletic training room at western New Mexico university in Silver City in Grant county;

3. one hundred thousand dollars (\$100,000) to plan, design and expand the Fox athletic complex at western New Mexico university in Silver City in Grant county;

4. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, equip and furnish the western New Mexico university museum in Silver City in Grant county; and

5. thirty thousand dollars (\$30,000) to purchase and install information technology for the Gallup graduate studies center of western New Mexico university in Gallup in McKinley county.

## **Chapter 42 Section 85 Laws 2007**

Section 85. VETERANS' SERVICES DEPARTMENT PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the veterans' services department for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. twenty thousand dollars (\$20,000) to purchase and equip a vehicle for transporting disabled veterans in Grant county; and

2. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, equip and furnish an addition to the veterans of foreign wars building in Mora in Mora county.

### **Chapter 42 Section 86 Laws 2007**

Section 86. WASTEWATER FACILITY CONSTRUCTION LOAN FUND PROJECT--GENERAL FUND.--One million five hundred thousand dollars (\$1,500,000) is appropriated from the general fund to the wastewater facility construction loan fund for expenditure in fiscal year 2007 and subsequent fiscal years 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.

### **Chapter 42 Section 87 Laws 2007**

Section 87. OFFICE OF WORKFORCE TRAINING AND DEVELOPMENT PROJECT--GENERAL FUND.--Twenty-five thousand dollars (\$25,000) is appropriated from the general fund to the office of workforce training and development for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to purchase, install and equip a mobile workforce connection service center, including information technology, for the eastern area workforce development board, based in Curry county but serving multiple counties.

### **Chapter 42 Section 88 Laws 2007**

Section 88. INDIAN WATER RIGHTS SETTLEMENT--GENERAL FUND.--

Upon certification, prior to July 1, 2008, by the interstate stream commission to the secretary of finance and administration that the water rights in the Navajo Nation, Taos and Aamodt cases have been settled, ten million dollars (\$10,000,000) is appropriated from the general fund to the Indian water rights settlement fund. Notwithstanding the requirement for a joint resolution of the legislature in Subsection A of Section 72-1-11 NMSA 1978, if corresponding commitments have been made for the federal portion of the settlement, the money may be expended by the interstate stream commission in fiscal year 2008 and subsequent fiscal years to implement the state's portion of the settlement. Unexpended or unencumbered balances shall not revert at the end of a fiscal year.

### **Chapter 42 Section 89 Laws 2007**

Section 89. PECOS RIVER COMPACT SETTLEMENT--GENERAL FUND.--

Upon certification by the interstate stream commission to the secretary of finance and administration that at least ninety-five percent of existing appropriations to implement the Pecos River Compact settlement have been fully expended or encumbered for specific land and water rights purchases or for specific contracts for the development of

augmentation well fields and pipelines and related professional services and that additional expenditures are necessary, the amount certified by the secretary as needed, up to one million five hundred thousand dollars (\$1,500,000) is appropriated from the general fund to the interstate stream commission for expenditure in fiscal year 2008 to purchase land and water rights within the interstate stream commission's pricing guidelines and for the development of augmentation well fields and pipelines and related professional services. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 42 Section 90 Laws 2007**

Section 90. EDUCATIONAL RETIREMENT BOARD PROJECT--EDUCATIONAL RETIREMENT FUND.--One million one hundred eighty-five thousand one hundred eighty-eight dollars (\$1,185,188) is appropriated from the educational retirement fund to the educational retirement board for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to complete construction of a building and upgrade the heating, ventilation and air conditioning systems and make other improvements to the educational retirement board building in Santa Fe in Santa Fe county.

## **Chapter 42 Section 91 Laws 2007**

Section 91. MINERS' COLFAX MEDICAL CENTER PROJECTS--MINERS' TRUST FUND.--The following amounts are appropriated from the miners' trust fund to the miners' Colfax medical center for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. seven hundred thirty-six thousand three hundred sixty dollars (\$736,360) to purchase equipment to digitize, view, send, manipulate and archive radiology images for the miners' Colfax medical center in Raton in Colfax county; and

2. one million nine hundred thousand dollars (\$1,900,000) for construction of an acute care center consistent with the American institute of architects' health care standards at the miners' Colfax medical center in Colfax county.

## **Chapter 42 Section 92 Laws 2007**

Section 92. PUBLIC EMPLOYEES RETIREMENT PROJECT--PUBLIC EMPLOYEES RETIREMENT ASSOCIATION INCOME FUND.--Nine million six hundred fifty-six thousand seven hundred dollars (\$9,656,700) is appropriated from the income fund of the public employees retirement association to the public employees retirement association for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, to acquire land for and plan, design, construct, equip and furnish a new office building for the public employees retirement association in Santa Fe in Santa Fe county.

## **Chapter 42 Section 93 Laws 2007**

Section 93. DEPARTMENT OF TRANSPORTATION PROJECTS--STATE ROAD FUND.--The following amounts are appropriated from the state road fund to the department of transportation for expenditure in fiscal years 2007 through 2011, unless otherwise provided in Section 2 of this act, for the following purposes:

1. seven hundred thousand dollars (\$700,000) to plan, design and construct a district 3 patrol building in Tijeras in Bernalillo county;
2. one hundred thousand dollars (\$100,000) to purchase land to expand the district 2 office complex in Chaves county;
3. eight hundred thousand dollars (\$800,000) for land acquisition and replacement of the district 4 La Cueva patrol facility in San Miguel county;
4. seven hundred fifty thousand dollars (\$750,000) to acquire or purchase heavy equipment for snow removal statewide; and
5. four hundred thousand dollars (\$400,000) to plan, design and construct salt domes statewide.

## **Chapter 42 Section 94 Laws 2007**

Section 94. IMPROVEMENTS AT FORT BAYARD MEDICAL CENTER--CHANGE TO SOUTHERN NEW MEXICO REHABILITATION CENTER, DEPARTMENT OF HEALTH FACILITIES AND NEW MEXICO VETERANS' HOME IMPROVEMENTS--REVENUE BONDS.--The unexpended balance of the authorized revenue bonds in Subsection C of Section 8 of Chapter 320 of Laws 2005 for improvements at Fort Bayard medical center shall not be expended for the original purpose but is changed as follows:

1. two million dollars (\$2,000,000) for improvements at the southern New Mexico rehabilitation center;
2. one million dollars (\$1,000,000) for upgrades at department of health facilities statewide and to plan, design, construct, renovate, equip and furnish a medical and dental unit at Sequoyah in Albuquerque in Bernalillo county; and
3. one million dollars (\$1,000,000) to plan, design, construct and expand a facility for an Alzheimer's unit and make other improvements at the New Mexico veterans' home in Truth or Consequences in Sierra county.

## **Chapter 42 Section 95 Laws 2007**

Section 95. SCHOOL-BASED CLINICS AND DEPARTMENT OF HEALTH FACILITIES--CHANGE TO OTHER HEALTH FACILITIES IMPROVEMENTS--GENERAL FUND.--The unexpended balance of the appropriation to the department of health in Subsection 2 of Section 49 of Chapter 111 of Laws 2006 for improvements to school-based clinics and department of health facilities statewide shall not be expended for the original purpose but is appropriated to the following agencies in the following amounts and for the following purposes:

A. to the department of health:

(1) two million dollars (\$2,000,000) to purchase and make improvements to a facility in Albuquerque in Bernalillo county to house the department of health's main public health office for Bernalillo county, with the purchase and improvements to the facility subject to the written approval of the department of health; and

(2) five hundred thousand dollars (\$500,000) to acquire land for, make improvements and plan, design, construct, equip and furnish a health commons facility in Rio Arriba county; and

B. to the local government division of the department of finance and administration:

(1) one million dollars (\$1,000,000) to acquire land for and plan, design and construct a county health facility in Grant county; and

(2) five hundred thousand dollars (\$500,000) to acquire land for and plan, design, construct and equip a county dialysis center in Gallup in McKinley county.

## **Chapter 42 Section 96 Laws 2007**

Section 96. SCHOOL-BASED HEALTH CENTER EQUIPMENT--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the primary care capital fund in Laws 2005, Chapter 347, Section 47 for hospital equipment for school-based health centers in New Mexico is appropriated to the department of health to purchase, install and set up medical equipment for school-based health centers in New Mexico.

## **Chapter 42 Section 97 Laws 2007**

Section 97. TAOS MUNICIPAL CHARTER SCHOOL MULTIPURPOSE BUILDING--CHANGE TO TAOS COUNTY ROAD DEPARTMENT EQUIPMENT--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 123 of Section 8 of Chapter 111 of Laws 2006 for a multipurpose building for the Taos municipal charter school in the Taos municipal school district in Taos county shall not be expended for the original purpose but is appropriated to the local government division of the department

of finance and administration to purchase equipment, heavy equipment, vehicles and machinery for the county road department in Taos county.

## **Chapter 42 Section 98 Laws 2007**

Section 98. ALBUQUERQUE TRANSIT SERVICE IMPROVEMENTS--CHANGE TO EXTREME SPORTS PARK--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 39 of Section 22 of Chapter 111 of Laws 2006 for transit service improvements and construction between the Alvarado station and a hub on University boulevard in Albuquerque in Bernalillo county shall not be expended for the original purpose but is appropriated to the local government division of the department of finance and administration to acquire land for, plan, design, construct and equip an extreme sports park in the vicinity of Menaul boulevard and the interchange of interstates 25 and 40 in Albuquerque.

## **Chapter 42 Section 99 Laws 2007**

Section 99. CHANGES TO GENERAL FUND APPROPRIATIONS MADE IN LAWS 2007, CHAPTER 2.--The following general fund appropriations in the following sections and subsections of Chapter 2 of Laws 2007 in the following amounts are changed in the following ways:

A. twenty-five thousand dollars (\$25,000) to the aging and long-term services department in Subsection 9 of Section 2 for an expansion to the San Jose senior center in Carlsbad in Eddy county shall not be expended for the original purpose but is appropriated to the local government division of the department of finance and administration to plan, design, purchase and install electronic digital signs in Carlsbad;

B. fifty thousand dollars (\$50,000) to the aging and long-term services department in Subsection 23 of Section 2 for additions to the Edgewood senior center in Santa Fe county shall not be expended for the original purpose but is appropriated to the public education department to plan, design and construct a track at Roosevelt middle school in the Albuquerque public school district in Bernalillo county;

C. fifty thousand dollars (\$50,000) to the public education department in Subsection 42 of Section 16 for non-textbook books at Madison middle school in the Albuquerque public school district in Bernalillo county shall not be expended for the original purpose but is changed to purchase and install educational technology, including related equipment and furniture and library furniture, for that school;

D. forty-five thousand dollars (\$45,000) to the public education department in Subsection 76 of Section 16 for playground equipment at Berrendo middle school in the Roswell independent school district in Chaves county shall not be expended for the original purpose but is changed to plan, design, construct and equip improvements to the playground at that school;

E. twenty thousand dollars (\$20,000) to the public education department in Subsection 79 of Section 16 for a baseball tractor and other equipment for the Goddard high school baseball program in the Roswell independent school district in Chaves county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design, construct and equip the Greentree solid waste transfer station and administration buildings in Lincoln county;

F. ten thousand dollars (\$10,000) to the public education department in Subsection 80 of Section 16 for equipment and technology for the Goddard high school baseball program in the Roswell independent school district in Chaves county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design, construct and equip the Greentree solid waste transfer station and administration buildings in Lincoln county;

G. fifty-five thousand dollars (\$55,000) to the public education department in Subsection 111 of Section 16 for a family and consumer science laboratory for Capitan middle school in the Capitan municipal school district in Lincoln county shall not be expended for the original purpose but is changed to plan, design, construct and equip improvements to the family and consumer science laboratory in the Capitan municipal school district;

H. eighty thousand dollars (\$80,000) to the public education department in Subsection 125 of Section 16 for scoreboards for the athletic program in the Las Vegas city public school district in San Miguel county shall not be expended for the original purpose but is changed to purchase reader boards for that school district;

I. twenty-five thousand dollars (\$25,000) of the appropriation to the public education department in Subsection 153 of Section 16 for bleachers at Des Moines high school in the Des Moines municipal school district in Union county shall not be expended for the original purpose but is changed to purchase and install equipment for industrial arts classes in that school district;

J. thirty-five thousand dollars (\$35,000) to the department of environment in Subsection 1 of Section 21 for an engineering study of the wastewater collection system in Angel Fire in Colfax county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct the village plaza road in Angel Fire;

K. forty-eight thousand dollars (\$48,000) to the interstate stream commission in Subsection 2 of Section 25 for constructing and equipping pump houses for the acequia madre de Carnuel in Carnuel in Bernalillo county shall not be expended for the original purpose but is appropriated to the following agencies in the following amounts for the following purposes:

(1) twenty-five thousand dollars (\$25,000) to the local government division of the department of finance and administration to plan, design, construct and install a

community-based public art project with the city's public art program in Albuquerque in Bernalillo county; and

(2) twenty-three thousand dollars (\$23,000) to the department of environment to plan, design and construct a wastewater collection, treatment and disposal system, including purchase and installation of membrane bio-reactor technology, in Edgewood in Santa Fe county;

L. one hundred twenty thousand dollars (\$120,000) to the local government division of the department of finance and administration in Subsection 20 of Section 26 for artificial turf for baseball and softball fields for the Eastdale little league in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, equip and furnish bleachers and shade structures for the Eastdale little league in Albuquerque;

M. one hundred thousand dollars (\$100,000) to the local government division of the department of finance and administration in Subsection 22 of Section 26 to purchase land for a park in the Four Hills area of Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, equip and furnish east Gateway park in Albuquerque;

N. thirty-five thousand dollars (\$35,000) to the local government division of the department of finance and administration in Subsection 25 of Section 26 for a linear park on Tramway boulevard in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and construct a linear park, including an exercise trail and dog park, adjacent to Laurelwood park in Albuquerque;

O. two hundred twenty-five thousand dollars (\$225,000) to the local government division of the department of finance and administration in Subsection 27 of Section 26 to design and construct a community center at north Domingo Baca park in Albuquerque in Bernalillo county may include park facilities at that location;

P. fifty thousand dollars (\$50,000) to the local government division of the department of finance and administration in Subsection 29 of Section 26 to purchase automated license plate readers for the Albuquerque police department in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to purchase equipment for the Albuquerque police department;

Q. one hundred seventy-five thousand one hundred dollars (\$175,100) to the local government division of the department of finance and administration in Subsection 35 of Section 26 for improvements to the Westgate little league field in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and construct the Tower community park and Westgate little league field improvements, including turf and concession stands, in Albuquerque;

R. twenty thousand dollars (\$20,000) to the local government division of the department of finance and administration in Subsection 42 of Section 26 for a gazebo at Hunter's Run park in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and construct a fire station in Los Ranchos de Albuquerque in Bernalillo county;

S. fifteen thousand dollars (\$15,000) to the local government division of the department of finance and administration in Subsection 44 of Section 26 to replace the roof at the North Valley public library in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and construct a fire station in Los Ranchos de Albuquerque in Bernalillo county;

T. fifty-five thousand dollars (\$55,000) to the local government division of the department of finance and administration in Subsection 54 of Section 26 for park maintenance equipment for Los Ranchos de Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and construct a fire station in Los Ranchos de Albuquerque;

U. fifty thousand dollars (\$50,000) to the local government division of the department of finance and administration in Subsection 87 of Section 26 for road graders in Cimarron in Colfax county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design and construct improvements to the water filter plant and system in Cimarron;

V. fifty thousand dollars (\$50,000) to the local government division of the department of finance and administration in Subsection 88 of Section 26 for a village park in Eagle Nest shall not be expended for the original purpose but is appropriated to the department of environment to plan, design and construct water and wastewater system improvements in Eagle Nest in Colfax county;

W. twenty thousand dollars (\$20,000) to the local government division of the department of finance and administration in Subsection 90 of Section 26 for improvements to the fairgrounds in Springer in Colfax county shall not be expended for the original purpose but is changed to improvements to the detention center in Colfax county;

X. one hundred thousand dollars (\$100,000) of the appropriation to the local government division of the department of finance and administration in Subsection 164 of Section 26 for a children's learning center at the library in Tularosa in Otero county shall not be expended for the original purpose but is changed to renovate the fire department building, including painting the exterior, in Tularosa in Otero county;

Y. two hundred thousand dollars (\$200,000) of the appropriation to the local government division of the department of finance and administration in Subsection 165 of Section 26 for improvements to the little league baseball field in Tularosa in Otero

county shall not be expended for the original purpose but is changed to purchase equipment and vehicles and renovate the maintenance yard building in Tularosa;

Z. forty-five thousand dollars (\$45,000) to the local government division of the department of finance and administration in Subsection 180 of Section 26 for a facility for a small business equity foundation in Sandoval county shall not be expended for the original purpose but is changed to plan, design, purchase and install electronic digital signs in Carlsbad in Eddy county;

AA. five hundred thousand dollars (\$500,000) of the appropriation to the local government division of the department of finance and administration in Subsection 193 of Section 26 for the first judicial district complex in Santa Fe county shall not be expended for the original purpose but is appropriated to the department of environment for acquiring water rights, including needed applications and transfers, for improvements to the water distribution system and wells and for planning a sewer system in Agua Fria in Santa Fe county;

BB. fifty thousand dollars (\$50,000) to the local government division of the department of finance and administration in Subsection 208 of Section 26 for a concession building at the municipal recreation complex rugby fields on Caja del Rio road in Santa Fe in Santa Fe county shall not be expended for the original purpose but is changed to plan, design and construct soccer fields at the municipal recreation complex in Santa Fe;

CC. eleven thousand dollars (\$11,000) to the local government division of the department of finance and administration in Subsection 225 of Section 26 for road equipment in Union county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct road improvements in Union county;

DD. two hundred thousand dollars (\$200,000) of the appropriation to the department of transportation in Subsection 23 of Section 30 for an intersection in the area of Twenty-first, Commerce and Prince streets in Clovis in Curry county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design, construct and equip an effluent reuse system in Clovis;

EE. one hundred fifty thousand dollars (\$150,000) to the department of transportation in Subsection 42 of Section 30 for drainage and surface improvements to Big Mesa road in San Miguel county shall not be expended for the original purpose but is changed to plan, design and construct drainage improvements to roads in the Conchas dam and Big Mesa areas in San Miguel county;

FF. twenty thousand dollars (\$20,000) to the board of regents of eastern New Mexico university in Subsection 2 of Section 32 for security systems, including telephones, in classrooms at the Roswell campus in Chaves county shall not be expended for the original purpose but is appropriated to the department of environment

to plan, design, construct and equip the Greentree solid waste transfer station and administration buildings in Lincoln county;

GG. twelve thousand dollars (\$12,000) to the board of regents of eastern New Mexico university in Subsection 6 of Section 32 for facilities for the welding department at the Roswell campus in Chaves county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design, construct and equip the Greentree solid waste transfer station and administration buildings in Lincoln county;

HH. seventy-five thousand dollars (\$75,000) to the board of regents of New Mexico highlands university in Subsection 1 of Section 33 for an early childhood center in Las Vegas in San Miguel county shall not be expended for the original purpose but is appropriated to the local government division of the department of finance and administration to plan, design, renovate and expand facilities, including purchase and installation of medical equipment, at St. Vincent medical center in Santa Fe in Santa Fe county;

II. twenty-five thousand dollars (\$25,000) to the board of regents of New Mexico military institute in Subsection 1 of Section 34 for information technology, equipment and uniforms for the baseball program at New Mexico military institute in Roswell in Chaves county is for the high school baseball program at that institute;

JJ. twenty-five thousand dollars (\$25,000) of the appropriation to the board of regents of New Mexico military institute in Subsection 3 of Section 34 for lighting at Stapp field at New Mexico military institute in Roswell in Chaves county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design, construct and equip the Greentree solid waste transfer station and administration buildings in Lincoln county;

KK. sixty thousand dollars (\$60,000) to the board of regents of New Mexico state university in Subsection 2 of Section 36 to purchase a plot combine for the New Mexico state university agricultural science center in Clovis in Curry county shall not be expended for the original purpose but is changed to equip that center;

LL. twenty-five thousand dollars (\$25,000) of the appropriation to the board of regents of the university of New Mexico in Subsection 3 of Section 38 for an alumni center at the university of New Mexico in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, renovate, repair, construct, furnish and equip Hodgin hall for use as an alumni center at the university of New Mexico in Albuquerque;

MM. one hundred thousand dollars (\$100,000) to the board of regents of the university of New Mexico in Subsection 14 of Section 38 for a building at the west campus in Rio Rancho in Sandoval county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design and

construct a north central economic development area water and wastewater system in Rio Rancho in Sandoval county;

NN. one hundred thousand dollars (\$100,000) to the public education department in Subsection 94 of Section 16 for playground equipment and structures at Anthony elementary school in the Gadsden independent school district in Dona Ana county shall not be expended for the original purpose but is appropriated to the department of environment to improve and upgrade substandard liquid waste disposal systems serving indigent persons in the colonias in Dona Ana county;

OO. seventy-five thousand dollars (\$75,000) to the local government division of the department of finance and administration in Subsection 100 of Section 26 to renovate the third judicial district court building in Dona Ana county shall not be expended for the original purpose but is appropriated to the department of environment to improve and upgrade substandard liquid waste disposal systems serving indigent persons in the colonias in Dona Ana county; and

PP. thirty-five thousand dollars (\$35,000) to the local government division of the department of finance and administration in Subsection 108 of Section 26 for radar equipment for sheriff's department vehicles in Dona Ana county shall not be expended for the original purpose but is appropriated to the department of environment to improve and upgrade substandard liquid waste disposal systems serving indigent persons in the colonias in Dona Ana county.

## **Chapter 42 Section 100 Laws 2007**

Section 100. Laws 2006, Chapter 111, Section 68 is amended to read:

"Section 68. ADDITIONAL SEVERANCE TAX BONDS-- APPROPRIATION FOR SPACEPORT.--

A. In addition to the bonds authorized to be issued pursuant to Laws 2006, Chapter 111, Section 1, the state board of finance may issue and sell severance tax bonds in compliance with the Severance Tax Bonding Act and the provisions of this section when the spaceport authority certifies the need for the issuance of the bonds. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible upon a finding by the board that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. The state board of finance shall further take the appropriate steps necessary to comply with the Internal Revenue Code of 1986, as amended.

B. Before the spaceport authority may certify for the issuance of the severance tax bonds, the southwest regional spaceport project must be developed sufficiently so that the spaceport authority reasonably expects to:

(1) timely comply with the requirements of Subsection C of this section;

(2) incur within six months after the applicable bonds have been issued a substantial binding obligation to a third party to expend at least five percent of the bond proceeds for the project; and

(3) spend at least eighty-five percent of the bond proceeds within three years after the applicable bonds have been issued.

C. The proceeds from the sale of the bonds are appropriated to the spaceport authority to acquire land and to plan, design, construct, furnish and equip the southwest regional spaceport in Sierra county and to acquire rights of way, plan, design and construct drainage and paving improvements and transportation infrastructure improvements in Sierra county and Dona Ana county that are related to the spaceport, subject to the following criteria:

(1) except as limited by Subsection D of this section, up to thirty-three million dollars (\$33,000,000) in severance tax bonds may be issued in fiscal year 2007 for expenditure in fiscal year 2007 and subsequent fiscal years upon the certification by the spaceport authority and a determination by the secretary of finance and administration that:

(a) estimates of the total final construction costs do not exceed two hundred twenty-five million dollars (\$225,000,000); and

(b) if a lease has been entered into between the state or any of its agencies, political subdivisions or instrumentalities and the anchor tenant of the southwest regional spaceport, the lease has been approved as required by law and the provisions of the lease adequately protect the interests of the state;

(2) up to an additional thirty-three million dollars (\$33,000,000) in severance tax bonds may be issued in fiscal year 2008 for expenditure in fiscal year 2008 and subsequent fiscal years upon the certification by the spaceport authority and a determination by the secretary of finance and administration that:

(a) the requirements of Subparagraphs (a) and (b) of Paragraph (1) of this subsection continue to be satisfied;

(b) any required environmental impact study for the southwest regional spaceport has been completed;

(c) the southwest regional spaceport has received an operating permit from the federal aviation administration; and

(d) at least once each calendar quarter, the spaceport authority has submitted a report to the legislative finance committee and the secretary of finance and

administration detailing: 1) the progress of the southwest regional spaceport project; 2) the money expended and the purposes of the expenditure; 3) the status of the efforts to secure federal or private matching funds; and 4) the economic development that has occurred and is projected to occur as a result of the southwest regional spaceport project; and

(3) up to an additional thirty-four million dollars (\$34,000,000) in severance tax bonds may be issued in fiscal year 2008 for expenditure in fiscal year 2008 and subsequent fiscal years upon the certification by the spaceport authority and a determination by the secretary of finance and administration that:

(a) the requirements of Subparagraphs (a) through (c) of Paragraph (2) of this subsection continue to be satisfied;

(b) at least once each calendar quarter, the spaceport authority has submitted a report to the legislative finance committee and the secretary of finance and administration detailing: 1) the progress of the southwest regional spaceport project; 2) the money expended and the purposes of the expenditure; 3) the status of the efforts to secure federal or private matching funds; and 4) the economic development that has occurred and is projected to occur as a result of the southwest regional spaceport project; and

(c) the spaceport authority has received or is likely to receive sufficient matching funds from public or private sources to complete the construction and implementation of the southwest regional spaceport.

D. If, after all certifications of need for the issuance of severance tax bonds authorized in 2007 have been received by the state board of finance, there remains sufficient severance tax bonding capacity, the state board of finance may issue severance tax bonds authorized in Paragraph (1) of Subsection C of this section in an amount up to thirty-three million dollars (\$33,000,000) to begin the initial infrastructure improvements in Sierra and Dona Ana counties necessary to the development of the spaceport. Nothing in this subsection prohibits the unused bonding authorization from being carried forward pursuant to Subsection E of this section.

E. Any amount of severance tax bonding capacity authorized but not issued in a fiscal year may be carried forward and certified in subsequent fiscal years.

F. The unexpended balance from the proceeds of the severance tax bonds issued pursuant to this section shall revert to the severance tax bonding fund within six months of completion of the southwest regional spaceport project, but no later than the end of fiscal year 2012.

G. Severance tax bond proceeds provided pursuant to this section shall not be used to pay indirect project costs.

H. 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.

I. If the spaceport authority has not certified the need for the issuance of the bonds by the end of fiscal year 2010, the authorization provided in this section shall expire."

### **Chapter 42 Section 101 Laws 2007**

Section 101. 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 42 Section 102 Laws 2007**

Section 102. 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 42 Section 103 Laws 2007**

Section 103. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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Senate Finance Committee Substitute

for Senate Bill 827, as amended

with emergency clause

Approved March 15, 2007

## **LAWS 2007, CHAPTER 43**

AN ACT

RELATING TO MOTOR VEHICLES; ENACTING A NEW SECTION OF THE MOTOR VEHICLE CODE TO PROVIDE FOR MULTIPLE TRIP SPECIAL PERMITS FOR OILFIELD EQUIPMENT TRANSPORT VEHICLES.

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

## **Chapter 43 Section 1 Laws 2007**

Section 1. A new section of the Motor Vehicle Code is enacted to read:

"MULTIPLE TRIP SPECIAL PERMIT ALLOWANCE--VEHICLES USED TO TRANSPORT OILFIELD EQUIPMENT--LIMITATIONS.--

A. An oilfield equipment transport vehicle may be issued a special permit to transport loads for multiple trips pursuant to Section 66-7-413 NMSA 1978. The area covered by the special permit shall be specified on the permit.

B. The multiple trip special permits for oilfield equipment transport vehicles may be issued for a load with a maximum width not to exceed twenty-two feet, a maximum height not to exceed twenty feet and a maximum length not to exceed one hundred ten feet; provided that:

(1) any load wider than twenty feet and higher than eighteen feet requires:

(a) a private escort; and

(b) a survey of the route for clearance of any overhead structures and width clearances prior to undertaking the move;

(2) the gross vehicle weight of the loaded vehicle is less than one hundred forty thousand pounds;

(3) the vehicle is marked on the front and the rear with "OVERSIZED LOAD" signs; and

(4) the vehicle is not operated on highways for which a more strict size or weight limitation is required by federal law.

C. The oilfield equipment transport vehicle shall not be operated on routes identified by the department of transportation as having deficient bridge structures. The owner or operator of the oilfield equipment transport vehicle shall obtain and have in its possession the deficient bridge information from the department, which shall be updated annually.

D. As used in this section, "oilfield equipment transport vehicle" means a motor vehicle, trailer or combination of a motor vehicle with a trailer used exclusively for hauling equipment or materials used in the production of oil or gas."

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House Bill 91, as amended

Approved March 16, 2007

## **LAWS 2007, CHAPTER 44**

AN ACT

RELATING TO EDUCATION; ENACTING THE MATHEMATICS AND SCIENCE EDUCATION ACT; CREATING THE MATHEMATICS AND SCIENCE BUREAU IN THE PUBLIC EDUCATION DEPARTMENT; CREATING AN ADVISORY COUNCIL; CREATING A FUND; MAKING AN APPROPRIATION.

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

### **Chapter 44 Section 1 Laws 2007**

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

"SHORT TITLE.--This act may be cited as the "Mathematics and Science Education Act"."

### **Chapter 44 Section 2 Laws 2007**

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

"DEFINITIONS.--As used in the Mathematics and Science Education Act:

A. "bureau" means the mathematics and science bureau;

B. "chief" means the chief of the bureau; and

C. "council" means the mathematics and science advisory council."

### **Chapter 44 Section 3 Laws 2007**

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

"BUREAU CREATED--DUTIES.--

A. The "mathematics and science bureau" is created in the department. The secretary shall appoint the chief as provided in the Public Education Department Act.

B. The bureau shall:

- Act;
- (1) administer the provisions of the Mathematics and Science Education Act;
  - (2) provide staff support for and coordinate the activities of the council;
  - (3) work with the council to develop a statewide strategic plan for mathematics and science education in the public schools and coordinate education activities with other state agencies, the federal government, business consortia and public or private organizations or other persons;
  - (4) ensure that school districts' plans include goals for improving mathematics and science education aligned to the department's strategic plan;
  - (5) recommend funding mechanisms that support the improvement of mathematics and science education in the state, including web-based mathematics and science curricula, mentoring and web-based homework assistance;
  - (6) promote partnerships among public schools, higher education institutions, government, business and educational and community organizations to improve the mathematics and science education in the state;
  - (7) develop and evaluate curricula, instructional programs and professional development programs in mathematics and science aligned with state academic content and performance standards; and
  - (8) assess the outcomes of efforts to improve mathematics and science education using existing data."

## **Chapter 44 Section 4 Laws 2007**

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

**"MATHEMATICS AND SCIENCE ADVISORY COUNCIL--CREATED--MEMBERS--TERMS--VACANCIES.--**

A. The "mathematics and science advisory council" is created, composed of twelve members. Members of the council shall be appointed by the secretary for staggered terms of four years; provided that for the initial appointments, four members shall be appointed for two years, four members shall be appointed for three years and four members shall be appointed for four years. A vacancy shall be filled by appointment by the secretary for the unexpired term.

B. Using a statewide application process, the secretary shall appoint members from throughout the state so as to ensure representation of the state's demographics, including geographic distribution, gender and ethnic diversity and as follows:

(1) four members from public schools, including at least two mathematics and science teachers and a school district administrator with experience in mathematics and science curricula;

(2) three members from public post-secondary educational institutions with expertise in mathematics or science education;

(3) four members from the private sector, including the national laboratories, museums and science- and engineering-based businesses; and

(4) one member who represents the New Mexico partnership for mathematics and science education.

C. Members of the council shall elect a chair from among the membership. The council shall meet at the call of the chair not less than quarterly.

D. Members of the council are entitled to receive per diem and mileage pursuant to the provisions of the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance."

## **Chapter 44 Section 5 Laws 2007**

Section 5. A new section of the Public School Code is enacted to read:

"COUNCIL DUTIES.--The council shall:

A. advise the bureau on implementation of the bureau's duties pursuant to the Mathematics and Science Education Act;

B. make recommendations to the bureau and the department regarding the statewide strategic plan for improving mathematics and science education and advise on its implementation and incorporation into the department's five-year strategic plan for public elementary and secondary education in the state;

C. advise the bureau, the department and the legislature regarding appropriations for mathematics and science education, administration, resources and services, including programs for public school students and staff;

D. work with the bureau to determine the need for improvement in mathematics and science achievement of public school students and make recommendations to the department on how to meet these needs; and

E. produce an annual report on public elementary and secondary mathematics and science student achievement to be submitted to the department, the governor and the legislature no later than November 30 of each year."

## Chapter 44 Section 6 Laws 2007

Section 6. A new section of the Public School Code is enacted to read:

"MATHEMATICS AND SCIENCE PROFICIENCY FUND--CREATED--  
PURPOSE--ANNUAL REPORTS.--

A. The "mathematics and science proficiency fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations and income from investment of the fund. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary or the secretary's authorized representative.

B. The fund shall be administered by the department, and money in the fund is appropriated to the department to provide awards to public schools, school districts, public post-secondary educational institutions and persons that implement innovative, research-

based mathematics and science curricula and professional development programs. The department shall promulgate rules for the application and award of money from the fund, including criteria to evaluate innovative, research-based mathematics and science programs and professional development programs.

C. Each award recipient shall provide an annual report to the bureau that includes a detailed budget report, a description of the services provided and documented evidence of the stated outcomes of the program funded by the mathematics and science proficiency fund and that provides other information requested by the bureau."

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House Bill 220, as amended

Approved March 16, 2007

## LAWS 2007, CHAPTER 45

AN ACT

RELATING TO TAXATION; PROVIDING FOR A STATE INCOME TAX CREDIT  
EQUAL TO A CERTAIN PERCENTAGE OF A FEDERAL INCOME TAX CREDIT FOR  
EARNED INCOME; CREATING THE WORKING FAMILIES TAX CREDIT;  
INCREASING THE MINIMUM ASSESSMENT AMOUNT; INCREASING THE CAP ON  
A PENALTY IMPOSED FOR FAILURE TO PAY A TAX OR TO FILE A RETURN;  
CHANGING THE RATE OF INTEREST PAID ON AN UNDERPAYMENT OR  
OVERPAYMENT OF A TAX; LIMITING THE RIGHT TO INTEREST ON REFUNDS OF

CERTAIN TAXES TO REFUNDS THAT ARE MADE MORE THAN ONE HUNDRED TWENTY DAYS AFTER THE CLAIM FOR REFUND IS MADE; ELIMINATING THE PENALTY FOR INCORRECT REPORTING OF THE FOOD OR HEALTH CARE PRACTITIONER SERVICES DEDUCTION; PROVIDING A CREDIT FOR CERTAIN PENALTIES; IMPOSING A PENALTY FOR FAILURE TO FILE INFORMATION RETURNS PURSUANT TO THE GASOLINE TAX ACT OR SPECIAL FUELS SUPPLIER TAX ACT; EXPANDING THE INCOME TAX EXEMPTION FOR LOW- AND MIDDLE-INCOME TAXPAYERS; INCREASING THE MAXIMUM INCOME AT WHICH THE EXEMPTION CAN BE CLAIMED; CREATING AN INCOME TAX CREDIT FOR ADOPTION OF SPECIAL NEEDS CHILDREN; PROVIDING A STATE INCOME TAX EXEMPTION FOR SALARIES PAID BY THE UNITED STATES FOR ACTIVE DUTY SERVICE IN THE ARMED FORCES OF THE UNITED STATES; PERMITTING A DEDUCTION FROM GROSS RECEIPTS FOR SALES OF CONSTRUCTION MATERIAL AND METALLIFEROUS MINERAL ORE TO CERTAIN TAX-EXEMPT ORGANIZATIONS THAT ARE ORGANIZED FOR THE PURPOSE OF PROVIDING HOME OWNERSHIP OPPORTUNITIES TO LOW-INCOME FAMILIES; PROVIDING AN EXEMPTION FROM GROSS RECEIPTS TAXES FOR THE GROSS RECEIPTS OF SALES OF GOODS BY A DISABLED STREET VENDOR; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2003; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

## **Chapter 45 Section 1 Laws 2007**

Section 1. Section 7-1-17 NMSA 1978 (being Laws 1965, Chapter 248, Section 20, as amended) is amended to read:

"7-1-17. ASSESSMENT OF TAX--PRESUMPTION OF CORRECTNESS.--

A. If the secretary or the secretary's delegate determines that a taxpayer is liable for taxes in excess of twenty-five dollars (\$25.00) that are due and that have not been previously assessed to the taxpayer, the secretary or the secretary's delegate shall promptly assess the amount thereof to the taxpayer.

B. Assessments of tax are effective:

(1) when a return of a taxpayer is received by the department showing a liability for taxes;

(2) when a document denominated "notice of assessment of taxes", issued in the name of the secretary, is mailed or delivered in person to the taxpayer against whom the liability for tax is asserted, stating the nature and amount of the taxes assertedly owed by the taxpayer to the state, demanding of the taxpayer the immediate payment of the taxes and briefly informing the taxpayer of the remedies available to the taxpayer; or

(3) when an effective jeopardy assessment is made as provided in the Tax Administration Act.

C. Any assessment of taxes or demand for payment made by the department is presumed to be correct.

D. When taxes have been assessed to any taxpayer and remain unpaid, the secretary or the secretary's delegate may demand payment at any time except as provided otherwise by Section 7-1-19 NMSA 1978."

## **Chapter 45 Section 2 Laws 2007**

Section 2. Section 7-1-67 NMSA 1978 (being Laws 1965, Chapter 248, Section 68, as amended) is amended to read:

### **"7-1-67. INTEREST ON DEFICIENCIES.--**

A. If a tax imposed is not paid on or before the day on which it becomes due, interest shall be paid to the state on that amount from the first day following the day on which the tax becomes due, without regard to any extension of time or installment agreement, until it is paid, except that:

(1) for income tax imposed on a member of the armed services of the United States serving in a combat zone under orders of the president of the United States, interest shall accrue only for the period beginning the day after any applicable extended due date if the tax is not paid;

(2) if the amount of interest due at the time payment is made is less than one dollar (\$1.00), then no interest shall be due;

(3) if demand is made for payment of a tax, including accrued interest, and if the tax is paid within ten days after the date of the demand, no interest on the amount paid shall be imposed for the period after the date of the demand;

(4) if a managed audit is completed by the taxpayer on or before the date required, as provided in the agreement for the managed audit, and payment of any tax found to be due is made in full within thirty days of the date the secretary has mailed or delivered an assessment for the tax to the taxpayer, no interest shall be due on the assessed tax;

(5) when, as the result of an audit or a managed audit, an overpayment of a tax is credited against an underpayment of tax pursuant to Section 7-1-29 NMSA 1978, interest shall accrue from the date the tax was due until the tax is deemed paid;

(6) if the department does not issue an assessment for the tax program and period within the time provided in Subsection D of Section 7-1-11.2 NMSA 1978, interest shall be paid from the first day following the day on which the tax becomes due until the tax is paid, excluding the period between either:

(a) the one hundred eightieth day after giving a notice of outstanding records or books of account and the date of the assessment of the tax; or

(b) the ninetieth day after the expiration of the additional time requested by the taxpayer to comply, if such request was granted, and the date of the assessment of the tax; and

(7) if the taxpayer was not provided with proper notices as required in Section 7-1-11.2 NMSA 1978, interest shall be paid from the first day following the day on which the tax becomes due until the tax is paid, excluding the period between one hundred eighty days prior to the date of assessment and the date of assessment.

B. Interest due to the state under Subsection A or D of this section shall be at the rate established for individuals pursuant to Section 6621 of the Internal Revenue Code, computed on a daily basis; provided that if a different rate is specified by a compact or other interstate agreement to which New Mexico is a party, that rate shall be applied to amounts due under the compact or other agreement.

C. Nothing in this section shall be construed to impose interest on interest or interest on the amount of any penalty.

D. If any tax required to be paid in accordance with Section 7-1-13.1 NMSA 1978 is not paid in the manner required by that section, interest shall be paid to the state on the amount required to be paid in accordance with Section 7-1-13.1 NMSA 1978. If interest is due under this subsection and is also due under Subsection A of this section, interest shall be due and collected only pursuant to Subsection A of this section."

## **Chapter 45 Section 3 Laws 2007**

Section 3. Section 7-1-68 NMSA 1978 (being Laws 1965, Chapter 248, Section 69, as amended by Laws 2003, Chapter 2, Section 1 and by Laws 2003, Chapter 439, Section 6) is amended to read:

"7-1-68. INTEREST ON OVERPAYMENTS.--

A. As provided in this section, interest shall be allowed and paid on the amount of tax overpaid by a person that is subsequently refunded or credited to that person.

B. Interest on overpayments of tax shall accrue and be paid at the rate established for individuals pursuant to Section 6621 of the Internal Revenue Code, computed on a daily basis; provided that if a different rate is specified by a compact or

other interstate agreement to which New Mexico is a party, that rate shall apply to amounts due under the compact or other agreement.

C. Unless otherwise provided by this section, interest on an overpayment not arising from an assessment by the department shall be paid from the date of the claim for refund until a date preceding by not more than thirty days the date of the credit or refund to any person; interest on an overpayment arising from an assessment by the department shall be paid from the date of overpayment until a date preceding by not more than thirty days the date of the credit or refund to any person.

D. No interest shall be allowed or paid with respect to an amount credited or refunded if:

(1) the amount of interest due is less than one dollar (\$1.00);

(2) the credit or refund is made within:

(a) fifty-five days of the date of the claim for refund of income tax, pursuant to either the Income Tax Act or the Corporate Income and Franchise Tax Act for the tax year immediately preceding the tax year in which the claim is made;

(b) seventy-five days of the date of the claim for refund of gasoline tax to users of gasoline off the highways; or

(c) one hundred twenty days of the date of the claim for refund of tax imposed pursuant to the Resources Excise Tax Act, the Severance Tax Act, the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas Production Equipment Ad Valorem Tax Act;

(3) the credit or refund is made within one hundred twenty days of the date of the claim for refund of income tax, pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act, for any tax year more than one year prior to the year in which the claim is made;

(4) Sections 6611(f) and 6611(g) of the Internal Revenue Code, as those sections may be amended or renumbered, prohibit payment of interest for federal income tax purposes;

(5) the credit or refund is made within sixty days of the date of the claim for refund of any tax other than income tax;

(6) the credit results from overpayments found in an audit of multiple reporting periods and applied to underpayments found in that audit or refunded as a net overpayment to the taxpayer pursuant to Section 7-1-29 NMSA 1978;

(7) the department applies the credit or refund to an intercept program, to the taxpayer's estimated payment prior to the due date for the estimated payment or to offset prior liabilities of the taxpayer pursuant to Subsection E of Section 7-1-29 NMSA 1978; or

(8) the credit or refund results from overpayments the department finds pursuant to Subsection F of Section 7-1-29 NMSA 1978 that exceed the refund claimed by the taxpayer on the return.

E. Nothing in this section shall be construed to require the payment of interest upon interest."

## **Chapter 45 Section 4 Laws 2007**

Section 4. Section 7-1-69 NMSA 1978 (being Laws 1965, Chapter 248, Section 70, as amended) is amended to read:

"7-1-69. CIVIL PENALTY FOR FAILURE TO PAY TAX OR FILE A RETURN.--

A. Except as provided in Subsection C of this section, in the case of failure due to negligence or disregard of department rules and regulations, but without intent to evade or defeat a tax, to pay when due the amount of tax required to be paid, to pay in accordance with the provisions of Section 7-1-13.1 NMSA 1978 when required to do so or to file by the date required a return regardless of whether a tax is due, there shall be added to the amount assessed a penalty in an amount equal to the greater of:

(1) two percent per month or any fraction of a month from the date the tax was due multiplied by the amount of tax due but not paid, not to exceed twenty percent of the tax due but not paid;

(2) two percent per month or any fraction of a month from the date the return was required to be filed multiplied by the tax liability established in the late return, not to exceed twenty percent of the tax liability established in the late return; or

(3) a minimum of five dollars (\$5.00), but the five-dollar (\$5.00) minimum penalty shall not apply to taxes levied under the Income Tax Act or taxes administered by the department pursuant to Subsection B of Section 7-1-2 NMSA 1978.

B. No penalty shall be assessed against a taxpayer if the failure to pay an amount of tax when due results from a mistake of law made in good faith and on reasonable grounds.

C. If a different penalty is specified in a compact or other interstate agreement to which New Mexico is a party, the penalty provided in the compact or other interstate agreement shall be applied to amounts due under the compact or other interstate

agreement at the rate and in the manner prescribed by the compact or other interstate agreement.

D. In the case of failure, with willful intent to evade or defeat a tax, to pay when due the amount of tax required to be paid, there shall be added to the amount fifty percent of the tax or a minimum of twenty-five dollars (\$25.00), whichever is greater, as penalty.

E. If demand is made for payment of a tax, including penalty imposed pursuant to this section, and if the tax is paid within ten days after the date of such demand, no penalty shall be imposed for the period after the date of the demand with respect to the amount paid.

F. If a taxpayer makes electronic payment of a tax but the payment does not include all of the information required by the department pursuant to the provisions of Section 7-1-

13.1 NMSA 1978 and if the department does not receive the required information within five business days from the later of the date a request by the department for that information is received by the taxpayer or the due date, the taxpayer shall be subject to a penalty of two percent per month or any fraction of a month from the fifth day following the date the request is received. If a penalty is imposed under Subsection A of this section with respect to the same transaction for the same period, no penalty shall be imposed under this subsection.

G. No penalty shall be imposed on:

(1) tax due in excess of tax paid in accordance with an approved estimated basis pursuant to Section 7-1-10 NMSA 1978;

(2) tax due as the result of a managed audit; or

(3) tax that is deemed paid by crediting overpayments found in an audit or managed audit of multiple periods pursuant to Section 7-1-29 NMSA 1978."

## **Chapter 45 Section 5 Laws 2007**

Section 5. Section 7-1-69.1 NMSA 1978 (being Laws 2005, Chapter 109, Section 1) is amended to read:

"7-1-69.1. CIVIL PENALTY FOR FAILURE TO FILE AN INFORMATION RETURN.--A taxpayer, wholesaler, retailer or rack operator who fails to file an information return on time pursuant to the Gasoline Tax Act or the Special Fuels Supplier Tax Act shall pay a penalty of fifty dollars (\$50.00) for each late report. This penalty shall be in addition to other applicable penalties."

## **Chapter 45 Section 6 Laws 2007**

Section 6. A new section of Chapter 7 NMSA 1978 is enacted to read:

"CREDIT FOR PENALTY PURSUANT TO SECTION 7-1-71.2 NMSA 1978.--

A. A taxpayer who paid a penalty pursuant to the provisions of Section 7-1-71.2 NMSA 1978 in effect prior to July 1, 2007 may claim a credit for the amount of the penalty.

B. To claim the credit provided in Subsection A of this section, the taxpayer shall apply to the taxation and revenue department prior to July 1, 2010, on forms and in the manner prescribed by the department, and shall supply documentation as required by the department.

C. The amount of credit provided in Subsection A of this section may be claimed against the taxpayer's gross receipts tax, compensating tax and withholding tax due in a reporting period. Any amount of available credit that exceeds the taxpayer's gross receipts tax, compensating tax and withholding tax due for a reporting period may be claimed in subsequent reporting periods, for a period of three years."

## **Chapter 45 Section 7 Laws 2007**

Section 7. Section 7-2-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 26, as amended by Laws 2003, Chapter 13, Section 1 and by Laws 2003, Chapter 275, Section 1) is amended to read:

"7-2-2. DEFINITIONS.--For the purpose of the Income Tax Act and unless the context requires otherwise:

A. "adjusted gross income" means adjusted gross income as defined in Section 62 of the Internal Revenue Code, as that section may be amended or renumbered;

B. "base income":

(1) means, for estates and trusts, that part of the estate's or trust's income defined as taxable income and upon which the federal income tax is calculated in the Internal Revenue Code for income tax purposes plus, for taxable years beginning on or after January 1, 1991, the amount of the net operating loss deduction allowed by Section 172(a) of the Internal Revenue Code, as that section may be amended or renumbered, and taken by the taxpayer for that year;

(2) means, for taxpayers other than estates or trusts, that part of the taxpayer's income defined as adjusted gross income plus, for taxable years beginning on or after January 1, 1991, the amount of the net operating loss deduction allowed by

Section 172(a) of the Internal Revenue Code, as that section may be amended or renumbered, and taken by the taxpayer for that year;

(3) includes, for all taxpayers, any other income of the taxpayer not included in adjusted gross income but upon which a federal tax is calculated pursuant to the Internal Revenue Code for income tax purposes, except amounts for which a calculation of tax is made pursuant to Section 55 of the Internal Revenue Code, as that section may be amended or renumbered; "base income" also includes interest received on a state or local bond; and

(4) includes, for all taxpayers, an amount deducted pursuant to Section 7-2-32 NMSA 1978 in a prior taxable year if:

(a) such amount is transferred to another qualified tuition program, as defined in Section 529 of the Internal Revenue Code, not authorized in the Education Trust Act; or

(b) a distribution or refund is made for any reason other than: 1) to pay for qualified higher education expenses, as defined pursuant to Section 529 of the Internal Revenue Code; or 2) upon the beneficiary's death, disability or receipt of a scholarship;

C. "compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services;

D. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "fiduciary" means a guardian, trustee, executor, administrator, committee, conservator, receiver, individual or corporation acting in any fiduciary capacity;

F. "filing status" means "married filing joint returns", "married filing separate returns", "head of household", "surviving spouse" and "single", as those terms are generally defined for federal tax purposes;

G. "fiscal year" means any accounting period of twelve months ending on the last day of any month other than December;

H. "head of household" means "head of household" as generally defined for federal income tax purposes;

I. "individual" means a natural person, an estate, a trust or a fiduciary acting for a natural person, trust or estate;

J. "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended;

K. "lump-sum amount" means for the purpose of determining liability for federal income tax, an amount that was not included in adjusted gross income but upon which the five-year-averaging or the ten-year-averaging method of tax computation provided in Section 402 of the Internal Revenue Code, as that section may be amended or renumbered, was applied;

L. "modified gross income" means all income of the taxpayer and, if any, the taxpayer's spouse and dependents, undiminished by losses and from whatever source, including:

- (1) compensation;
- (2) net profit from business;
- (3) gains from dealings in property;
- (4) interest;
- (5) net rents;
- (6) royalties;
- (7) dividends;
- (8) alimony and separate maintenance payments;
- (9) annuities;
- (10) income from life insurance and endowment contracts;
- (11) pensions;
- (12) discharge of indebtedness;
- (13) distributive share of partnership income;
- (14) income in respect of a decedent;
- (15) income from an interest in an estate or a trust;
- (16) social security benefits;
- (17) unemployment compensation benefits;

- (18) workers' compensation benefits;
- (19) public assistance and welfare benefits;
- (20) cost-of-living allowances; and
- (21) gifts;

M. "modified gross income" excludes:

- (1) payments for hospital, dental, medical or drug expenses to or on behalf of the taxpayer;
- (2) the value of room and board provided by federal, state or local governments or by private individuals or agencies based upon financial need and not as a form of compensation;
- (3) payments pursuant to a federal, state or local government program directly or indirectly to a third party on behalf of the taxpayer when identified to a particular use or invoice by the payer; or
- (4) payments for credits and rebates pursuant to the Income Tax Act and made for a credit pursuant to Section 7-3-9 NMSA 1978;

N. "net income" means, for estates and trusts, base income adjusted to exclude amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States and means, for taxpayers other than estates or trusts, base income adjusted to exclude:

- (1) an amount equal to the standard deduction allowed the taxpayer for the taxpayer's taxable year by Section 63 of the Internal Revenue Code, as that section may be amended or renumbered;
- (2) an amount equal to the itemized deductions defined in Section 63 of the Internal Revenue Code, as that section may be amended or renumbered, allowed the taxpayer for the taxpayer's taxable year less the amount excluded pursuant to Paragraph (1) of this subsection;
- (3) an amount equal to the product of the exemption amount allowed for the taxpayer's taxable year by Section 151 of the Internal Revenue Code, as that section may be amended or renumbered, multiplied by the number of personal exemptions allowed for federal income tax purposes;
- (4) income from obligations of the United States of America less expenses incurred to earn that income;

(5) other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States;

(6) for taxable years that began prior to January 1, 1991, an amount equal to the sum of:

(a) net operating loss carryback deductions to that year from taxable years beginning prior to January 1, 1991 claimed and allowed, as provided by the Internal Revenue Code; and

(b) net operating loss carryover deductions to that year claimed and allowed; and

(7) for taxable years beginning on or after January 1, 1991, an amount equal to the sum of any net operating loss carryover deductions to that year claimed and allowed, provided that the amount of any net operating loss carryover from a taxable year beginning on or after January 1, 1991 may be excluded only as follows:

(a) in the case of a timely filed return, in the taxable year immediately following the taxable year for which the return is filed; or

(b) in the case of amended returns or original returns not timely filed, in the first taxable year beginning after the date on which the return or amended return establishing the net operating loss is filed; and

(c) in either case, if the net operating loss carryover exceeds the amount of net income exclusive of the net operating loss carryover for the taxable year to which the exclusion first applies, in the next four succeeding taxable years in turn until the net operating loss carryover is exhausted; in no event shall a net operating loss carryover be excluded in any taxable year after the fourth taxable year beginning after the taxable year to which the exclusion first applies;

O. "net operating loss" means any net operating loss, as defined by Section 172(c) of the Internal Revenue Code, as that section may be amended or renumbered, for a taxable year as further increased by the income, if any, from obligations of the United States for that year less related expenses;

P. "net operating loss carryover" means the amount, or any portion of the amount, of a net operating loss for any taxable year that, pursuant to Paragraph (6) or (7) of Subsection N of this section, may be excluded from base income;

Q. "nonresident" means every individual not a resident of this state;

R. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture, syndicate or other association; "person" also means, to the extent permitted by

law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof;

S. "resident" means an individual who is domiciled in this state during any part of the taxable year or an individual who is physically present in this state for one hundred eighty-five days or more during the taxable year; but any individual, other than someone who was physically present in the state for one hundred eighty-five days or more during the taxable year, who, on or before the last day of the taxable year, changed the individual's place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state is not a resident for the purposes of the Income Tax Act for periods after that change of abode;

T. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

U. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States or any political subdivision of a foreign country;

V. "state or local bond" means a bond issued by a state other than New Mexico or by a local government other than one of New Mexico's political subdivisions, the interest from which is excluded from income for federal income tax purposes under Section 103 of the Internal Revenue Code, as that section may be amended or renumbered;

W. "surviving spouse" means "surviving spouse" as generally defined for federal income tax purposes;

X. "taxable income" means net income less any lump-sum amount;

Y. "taxable year" means the calendar year or fiscal year upon the basis of which the net income is computed under the Income Tax Act and includes, in the case of the return made for a fractional part of a year under the provisions of the Income Tax Act, the period for which the return is made; and

Z. "taxpayer" means any individual subject to the tax imposed by the Income Tax Act."

## **Chapter 45 Section 8 Laws 2007**

Section 8. Section 7-2-5.8 NMSA 1978 (being Laws 2005, Chapter 104, Section 5) is amended to read:

"7-2-5.8. EXEMPTION FOR LOW- AND MIDDLE-INCOME TAXPAYERS.--

A. An individual may claim an exemption in an amount specified in Subsections B through D of this section not to exceed an amount equal to the number of federal exemptions multiplied by two thousand five hundred dollars (\$2,500) of income includable, except for this exemption, in net income.

B. For a married individual filing a separate return with adjusted gross income up to twenty-seven thousand five hundred dollars (\$27,500):

(1) if the adjusted gross income is not over fifteen thousand dollars (\$15,000), the amount of the exemption pursuant to this section shall be two thousand five hundred dollars (\$2,500) for each federal exemption; and

(2) if the adjusted gross income is over fifteen thousand dollars (\$15,000) but not over twenty-seven thousand five hundred dollars (\$27,500), the amount of the exemption pursuant to this section for each federal exemption shall be calculated as follows:

(a) two thousand five hundred dollars (\$2,500); less

(b) twenty percent of the amount obtained by subtracting fifteen thousand dollars (\$15,000) from the adjusted gross income.

C. For single individuals with adjusted gross income up to thirty-six thousand six hundred sixty-seven dollars (\$36,667):

(1) if the adjusted gross income is not over twenty thousand dollars (\$20,000), the amount of the exemption pursuant to this section shall be two thousand five hundred dollars (\$2,500) for each federal exemption; and

(2) if the adjusted gross income is over twenty thousand dollars (\$20,000) but not over thirty-six thousand six hundred sixty-seven dollars (\$36,667), the amount of the exemption pursuant to this section for each federal exemption shall be calculated as follows:

(a) two thousand five hundred dollars (\$2,500); less

(b) fifteen percent of the amount obtained by subtracting twenty thousand dollars (\$20,000) from the adjusted gross income.

D. For married individuals filing joint returns, surviving spouses or for heads of households with adjusted gross income up to fifty-five thousand dollars (\$55,000):

(1) if the adjusted gross income is not over thirty thousand dollars (\$30,000), the amount of the exemption pursuant to this section shall be two thousand five hundred dollars (\$2,500) for each federal exemption; and

(2) if the adjusted gross income is over thirty thousand dollars (\$30,000) but not over fifty-five thousand dollars (\$55,000), the amount of the exemption pursuant to this section for each federal exemption shall be calculated as follows:

(a) two thousand five hundred dollars (\$2,500); less

(b) ten percent of the amount obtained by subtracting thirty thousand dollars (\$30,000) from the adjusted gross income."

## **Chapter 45 Section 9 Laws 2007**

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

"WORKING FAMILIES TAX CREDIT.--

A. A resident who files an individual New Mexico income tax return may claim a credit in an amount equal to eight percent of the federal income tax credit for which that individual is eligible for the same taxable year pursuant to Section 32 of the Internal Revenue Code. The credit provided in this section may be referred to as the "working families tax credit".

B. The working families tax credit may be deducted from the income tax liability of an individual who claims the credit and qualifies for the credit pursuant to this section. If the credit exceeds the individual's income tax liability for the taxable year, the excess shall be refunded to the individual."

## **Chapter 45 Section 10 Laws 2007**

Section 10. A new section of the Income Tax Act is enacted to read:

"CREDIT--SPECIAL NEEDS ADOPTED CHILD TAX CREDIT--CREATED--  
QUALIFICATIONS--DURATION OF CREDIT.--

A. A taxpayer who files an individual New Mexico income tax return, who is not a dependent of another individual and who adopts a special needs child on or after January 1, 2007 or has adopted a special needs child prior to January 1, 2007, may claim a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act. The credit authorized pursuant to this section may be referred to as the "special needs adopted child tax credit".

B. A taxpayer may claim and the department may allow a special needs adopted child tax credit in the amount of one thousand dollars (\$1,000) to be claimed against the taxpayer's tax liability for the taxable year imposed pursuant to the Income Tax Act.

C. A taxpayer may claim a special needs adopted child tax credit for each year that the child may be claimed as a dependent for federal taxation purposes by the taxpayer.

D. If the amount of the special needs adopted child tax credit due to the taxpayer exceeds the taxpayer's individual income tax liability, the excess shall be refunded.

E. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the special needs adopted child tax credit provided in this section that would have been allowed on a joint return.

F. As used in this section, "special needs adopted child" means an individual who may be over eighteen years of age and who is certified by the children, youth and families department or a licensed child placement agency as meeting the definition of a "difficult to place child" pursuant to the Adoption Act; provided, however, if the classification as a "difficult to place child" is based on a physical or mental impairment or an emotional disturbance the physical or mental impairment or emotional disturbance shall be at least moderately disabling."

## **Chapter 45 Section 11 Laws 2007**

Section 11. A new section of the Income Tax Act is enacted to read:

"EXEMPTION--ARMED FORCES SALARIES.--A salary paid by the United States to a taxpayer for active duty service in the armed forces of the United States is exempt from state income taxation."

## **Chapter 45 Section 12 Laws 2007**

Section 12. Section 7-9-60 NMSA 1978 (being Laws 1970, Chapter 12, Section 4, as amended) is amended to read:

"7-9-60. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL GROSS RECEIPTS TAX--SALES TO CERTAIN ORGANIZATIONS.--

A. Except as provided otherwise in Subsection B of this section, receipts from selling tangible personal property to 501(c)(3) organizations may be deducted from gross receipts or from governmental gross receipts if the sale is made to an organization that delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate shall employ the tangible personal property in the conduct of functions described in Section 501(c)(3) and shall not employ the tangible personal property in the conduct of an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of 1986, as amended or renumbered.

B. The deduction provided by this section does not apply to receipts from selling construction material or from selling metalliferous mineral ore; except that receipts from selling construction material or from selling metalliferous mineral ore to a 501(c)(3) organization that is organized for the purpose of providing homeownership opportunities to low-income families may be deducted from gross receipts. Receipts may be deducted under this subsection only if the buyer delivers a nontaxable transaction certificate to the seller. The buyer shall use the property in the conduct of functions described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and shall not employ the tangible personal property in the conduct of an unrelated trade or business as defined in Section 513 of that code.

C. For the purposes of this section, "501(c)(3) organization" means an organization that has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended or renumbered."

## **Chapter 45 Section 13 Laws 2007**

Section 13. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"EXEMPTION--RECEIPTS FROM SALES BY DISABLED STREET VENDORS.--

A. Exempt from payment of the gross receipts tax are receipts from the sale of goods by a disabled street vendor.

B. As used in this section:

(1) "disabled" means to be blind or permanently disabled with medical improvement not expected pursuant to 42 USCA 421 for purposes of the federal Social Security Act or to have a permanent total disability pursuant to the Workers' Compensation Act; and

(2) "street vendor" means a person licensed by a local government to sell items of tangible personal property by newly setting up a sales site daily or selling the items from a moveable cart, tray, blanket or other device."

## **Chapter 45 Section 14 Laws 2007**

Section 14. REPEAL.--

A. Section 7-2-5.4 NMSA 1978 (being Laws 1988, Chapter 59, Section 1, as amended) is repealed. This repeal is applicable to tax years beginning on or after January 1, 2007.

B. Section 7-1-71.2 NMSA 1978 (being Laws 2004, Chapter 116, Section 3) is repealed effective July 1, 2007.

### **Chapter 45 Section 15 Laws 2007**

Section 15. APPLICABILITY.--The provisions of Sections 7 through 11 of this act apply to taxable years beginning on or after January 1, 2007.

### **Chapter 45 Section 16 Laws 2007**

Section 16. EFFECTIVE DATE.--

A. The effective date of Sections 1 through 5 of this act is January 1, 2008.

B. The effective date of Sections 6, 12 and 13 of this act is July 1, 2007.

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Senate Finance Committee Substitute

for House Bill 436, as amended,

Approved March 16, 2007

## **LAWS 2007, CHAPTER 46**

AN ACT

RELATING TO DISABILITIES; MAKING TECHNICAL CHANGES TO STATUTORY LANGUAGE TO REFLECT CURRENT USE OF TERMS ABOUT PERSONS WITH DISABILITIES; CHANGING FUNDING LANGUAGE FOR THE DISABILITY FUND; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 1995.

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

### **Chapter 46 Section 1 Laws 2007**

Section 1. Section 3-1-5 NMSA 1978 (being Laws 1985, Chapter 208, Section 2, as amended) is amended to read:

"3-1-5. PETITIONS--EXAMINATIONS OF SIGNATURES--PURGING--JUDICIAL REVIEW.--

A. All petitions, filing of petitions, verification of petitions and all other acts to be performed by petitioners, public officers or employees, regarding only those petitions that trigger a municipal special or regular election as authorized in the Municipal Code or otherwise authorized by law, shall comply with the terms of this section, except as otherwise expressly provided by law.

B. Each page or group of pages of a petition shall be accepted for filing by a municipal clerk, a county clerk, a governing body or a board of county commissioners only if:

(1) the municipal clerk has approved the form of petitions to be filed with the municipality prior to circulation of the petition; or

(2) the county clerk has approved the form of petitions to be filed with the county prior to circulation of the petition; and

(3) each page of the petition to be filed contains the approval or facsimile approval of the municipal or county clerk and the petition heading and penalty statement are legible when submitted for filing.

C. The municipal or county clerk shall approve a petition as to form if the proposed petition form contains:

(1) a heading that complies with a particular form of heading required by law; or

(2) a heading that clearly conveys the purpose for signing the petition if no particular form of heading is required by law;

(3) a place for the person signing the petition to write the date and the person's name (printed), address and signature, unless other requirements are mandated by law and then the petition shall comply with those requirements; and

(4) a statement that any person knowingly providing or causing to be provided any false information on a petition, forging a signature or signing a petition when that person knows that person is not a qualified elector in the municipality is guilty of a fourth degree felony.

D. The requirements of Subsection B of this section shall be deemed complied with if an original form of petition is submitted to a municipal or county clerk for approval prior to circulation and after approval by the clerk that original form is reproduced by photocopying or other similar means so that the form and clerk's approval are unchanged from the original and are legible on each page of the petition to be filed.

E. A petition filed with a municipal clerk, a county clerk, a governing body or a board of county commissioners shall include all individual pages of a petition complying

with the provisions of this section, regardless of whether the pages are filed singly or in a group. Pages complying with the provisions of this section may be filed at different times so long as filing is within the time period allowed by law for the filing of the particular petition to be filed. If no time period is established by law, petition signatures may not span a period of time greater than sixty days from the date of the earliest signature on the petition, and the petition shall be filed within sixty-five days from the date of the earliest signature on the petition.

F. Upon approval of a proposed petition as to form, the municipal clerk shall notify the county clerk of the approval, and the county clerk shall furnish a current voter registration list of qualified electors entitled to vote in municipal elections to the municipal clerk within fourteen days of the notification.

G. When a petition is filed with a municipal clerk, a county clerk, a governing body or a board of county commissioners, the governing body or board of county commissioners shall either certify the petition as valid or order an examination of the petition and the names, addresses and signatures on the petition.

H. When an examination of the petition and the names, addresses and signatures on the petition is ordered, the municipal clerk, county clerk, governing body or board of county commissioners shall:

(1) resolve issues of residency and major infractions in accordance with the rules set forth in the Municipal Election Code;

(2) determine the minimum number of valid names, addresses and signatures, as mandated by law, that must be contained in the particular petition filed in order for it to be declared a valid petition;

(3) examine the petition and the names, addresses and signatures on the petition, purge from the petition the signature of any person who is not shown as a qualified elector of the municipality on the list of registered voters provided by the county clerk, purge any signature that is a forgery or that is illegible, purge any signature that appears more than once or that cannot be matched to the name, address and signature as shown on the voter registration lists and the original affidavit of registration, purge the signature of any person who has not signed within the time limits set by law and purge the signature of any person who does not meet the qualifications for signing the petition as prescribed by law; and

(4) certify, no later than ten days after the petition is filed or after the expiration of the period within which the petition can be filed as prescribed by law, whichever occurs last, whether the petition contains the minimum number of valid names, addresses and signatures as mandated by law.

I. Nothing in this section shall preclude a person with a disability or an illiterate person from causing another person to sign a petition on a person with a disability's or

an illiterate person's behalf, so long as the person signing for the person with a disability or illiterate person executes an affidavit acknowledged before a notary public that the person is authorized to sign the petition for the person with a disability or illiterate person. In order for the signature on behalf of the person with a disability or illiterate person to be counted and not purged, the original affidavit shall be submitted along with the petition containing the signature on behalf of the illiterate person or person with a disability.

J. If the petition is certified as valid pursuant to Subsection G of this section or is certified as containing in excess of the minimum number of valid names, addresses and signatures mandated by law, then such certification shall be recorded as part of the minutes at the next meeting of the governing body or the board of county commissioners.

K. If the petition is certified as containing less than the minimum number of valid names, addresses and signatures mandated by law, then the municipal clerk, county clerk, governing body or board of county commissioners shall:

(1) cause the names, addresses and signatures that were purged from the petition to be posted in the municipal or county clerk's office no later than on the day the petition is certified;

(2) determine the total number of people signing the petition, the number purged, the number that were not purged and the minimum number of valid names, addresses and signatures required by law for such a petition and post this information along with and at the same time as the posting required in Paragraph (1) of this subsection;

(3) publish once, pursuant to the provisions of Subsection J of Section 3-1-2 NMSA 1978, within one week of the certification, the information compiled pursuant to Paragraphs (1) and (2) of this subsection; and

(4) cause the information compiled pursuant to Paragraphs (1) and (2) of this subsection and the date and place of publication pursuant to Paragraph (3) of this subsection to be recorded as part of the minutes at the next meeting of the governing body or the board of county commissioners after publication has occurred.

L. The following rules shall govern reinstatement of purged signatures:

(1) within ten days after the petition is certified as containing less than the minimum number of valid names, addresses and signatures mandated by law, any person whose signature has been purged from a petition may present evidence to the clerk to show that the person's signature has been wrongfully purged;

(2) if the clerk fails to reinstate that person's signature within three days of demand, then that person may, within ten days of the clerk's refusal to reinstate, petition

the district court for an order to reinstate the person's signature on the petition. Upon a prima facie showing by the petitioner of the right to have that person's signature included upon the petition, the district court shall issue an order to the municipal clerk, county clerk, governing body or board of county commissioners to require reinstatement of the signature of the petitioner;

(3) within ten days after receiving the order of the district court, the municipal clerk, county clerk, governing body or board of county commissioners shall reinstate the signature of the petitioner on the petition or show cause why the signature of the petitioner has not been reinstated. Upon hearing, if the district court finds that the person whose signature has been purged meets the qualifications for signing the petition, the district court shall make final its order of reinstatement to the municipal clerk, county clerk, governing body or board of county commissioners; and

(4) if a sufficient number of signatures are reinstated by the clerk, the district court or both to make the petition valid, then the reinstatement by the clerk or the district court, whichever occurs last, shall be deemed the date of certification of the validity of the petition for the purposes of adopting election resolutions, calling elections or for other matters as provided in the Municipal Code or otherwise provided by law.

M. Any petition that contains an insufficient number of signatures after all signatures have been reinstated pursuant to Subsection L of this section is invalid.

N. When a petition governed by this section is filed with the municipal clerk or the governing body of a municipality, the governing body or municipal clerk shall perform or cause to be performed the duties required under this section, except as otherwise prohibited by law. When a petition governed by this section is required to be filed with the county clerk or board of county commissioners, the board of county commissioners or county clerk shall perform or cause to be performed the duties required under this section, except as otherwise prohibited by law.

O. Any person or any municipal or county official knowingly violating the provisions of this section, knowingly providing or causing to be provided any false information on a petition or forging a signature or otherwise signing a petition when that person knows the person is not a qualified elector in the municipality is guilty of a fourth degree felony.

P. The provisions of this section shall not be binding upon a municipality to the extent such provisions are inconsistent with or superseded by the terms and provisions of:

(1) the charter of a municipality incorporated by a special act;

(2) the charter of a municipality adopted pursuant to Article 10, Section 6 of the constitution of New Mexico;

(3) the charter of a municipality adopted pursuant to the Municipal Charter Act; or

(4) the charter of a combined municipal organization.

Q. Once a petition has been filed with a municipal clerk, a county clerk, a governing body or a board of county commissioners, no name on the petition may be withdrawn except those names purged pursuant to Subsection H of this section."

## **Chapter 46 Section 2 Laws 2007**

Section 2. Section 3-8-22 NMSA 1978 (being Laws 1985, Chapter 208, Section 30, as amended) is amended to read:

"3-8-22. CONDUCT OF ELECTION--ELIGIBILITY FOR ASSISTANCE--ORAL ASSISTANCE FOR LANGUAGE MINORITY VOTERS--AID OR ASSISTANCE TO VOTER MARKING BALLOT--WHO MAY ASSIST VOTER--TYPE OF ASSISTANCE.--

A. A voter may request assistance in voting only if the voter is:

(1) visually impaired;

(2) a person with a physical disability;

(3) unable to read or write; or

(4) a member of a language minority who is unable to read well enough to exercise the elective franchise.

B. When a voter who is eligible for assistance requires assistance in marking a paper ballot or recording a vote on a voting machine, the voter shall announce this fact in an audible tone before receiving the paper ballot or before entering the voting machine.

C. The voter's request for assistance shall be noted next to the voter's name in the signature roster and shall be initialed by the presiding judge.

D. After noting the voter's request for assistance in the signature roster, the voter shall be allowed to receive assistance in marking a paper ballot or recording a vote on a voting machine.

E. A person who swears falsely in order to secure assistance with voting is guilty of perjury.

F. If a voter who has requested assistance in marking a ballot has a visual impairment or physical disability, is unable to read or write or is a member of a language

minority who has requested assistance, the voter may be accompanied into the voting machine by a person of the voter's own choice; provided that the person shall not be the voter's employer, an agent of that employer, an officer or agent of the voter's union or a candidate whose name appears on the ballot in the election. A member of the precinct board may assist a voter, if requested to do so by that voter.

G. A person who accompanies the voter into the voting booth or voting machine may assist the voter in marking and folding a paper ballot or recording a vote on the voting machine. A member of the precinct board who assists a voter shall not disclose the name of any candidate or questions for whom any voter voted.

H. Oral assistance shall be made available to assist language minority voters who cannot read sufficiently well to exercise the elective franchise. "Language minority" means a person who is Native American or of Spanish heritage, and "inability to read well enough to exercise the elective franchise" means inability to read the languages in which the ballot is printed or the inability to understand instructions for operating the voting machine.

I. The position of election translator is created. The election translator shall be an additional member of the regular precinct board, unless oral assistance to language minorities can otherwise be rendered by a member of the regular precinct board. The election translator shall be appointed by the municipal clerk in the same manner as other precinct board members are appointed, except that the municipal clerk in appointing Native American election translators shall seek the advice of the pueblo or tribal officials residing in that municipality. The election translator shall take the oath required of precinct board members and shall meet the same qualifications as other precinct board members.

J. Each municipal clerk shall compile and maintain a list of standby election translators to serve in those precincts on election day when the appointed election translator is unavailable for such service."

## **Chapter 46 Section 3 Laws 2007**

Section 3. Section 3-21-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-

20-1, as amended by Laws 1995, Chapter 170, Section 4 and also by Laws 1995, Chapter 211, Section 3) is amended to read:

"3-21-1. ZONING--AUTHORITY OF COUNTY OR MUNICIPALITY.--

A. For the purpose of promoting health, safety, morals or the general welfare, a county or municipality is a zoning authority and may regulate and restrict within its jurisdiction the:

- (1) height, number of stories and size of buildings and other structures;
- (2) percentage of a lot that may be occupied;
- (3) size of yards, courts and other open space;
- (4) density of population; and
- (5) location and use of buildings, structures and land for trade, industry, residence or other purposes.

B. The county or municipal zoning authority may:

- (1) divide the territory under its jurisdiction into districts of such number, shape, area and form as is necessary to carry out the purposes of Sections 3-21-1 through 3-21-14 NMSA 1978; and
- (2) regulate or restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land in each district. All such regulations shall be uniform for each class or kind of buildings within each district, but regulation in one district may differ from regulation in another district.

C. All state-licensed or state-operated community residences for persons with a mental or developmental disability and serving ten or fewer persons may be considered a residential use of property for purposes of zoning and may be permitted use in all districts in which residential uses are permitted generally, including particularly residential zones for single-family dwellings.

D. A board of county commissioners of the county in which the greatest amount of the territory of the petitioning village, community, neighborhood or district lies may declare by ordinance that a village, community, neighborhood or district is a "traditional historic community" upon petition by twenty-five percent or more of the registered qualified electors of the territory within the village, community, neighborhood or district requesting the designation. The number of registered qualified electors shall be based on county records as of the date of the last general election.

E. Any village, community, neighborhood or district that is declared a traditional historic community shall be excluded from the extraterritorial zone and extraterritorial zoning authority of any municipality whose extraterritorial zoning authority extends to include all or a portion of the traditional historic community and shall be subject to the zoning jurisdiction of the county in which the greatest portion of the traditional historic community lies."

## **Chapter 46 Section 4 Laws 2007**

Section 4. Section 3-51-46 NMSA 1978 (being Laws 1973, Chapter 22, Section 3, as amended) is amended to read:

"3-51-46. PASSENGER MOTOR VEHICLE OF A PERSON WITH A DISABILITY--PARKING PRIVILEGE.--Passenger motor vehicles owned by and carrying a person with a disability and displaying special registration plates, or passenger motor vehicles carrying persons with severe mobility impairment and displaying parking placards, issued pursuant to Section 66-3-16 NMSA 1978, shall be permitted to park for unlimited periods of time in parking zones restricted as to length of time parking is normally permitted and are exempt from payment of any parking fee of the state or its political subdivisions. The provisions of this section shall prevail over any other law, rule or local ordinance but do not apply to zones where stopping, standing or parking is prohibited, zones reserved for special types of vehicles, zones where parking is prohibited during certain hours of the day in order to facilitate traffic during those hours when parking is prohibited and zones subject to similar regulation because parking presents a traffic hazard."

## **Chapter 46 Section 5 Laws 2007**

Section 5. Section 3-60-26 NMSA 1978 (being Laws 1975, Chapter 341, Section 26) is amended to read:

"3-60-26. POWERS OF MUNICIPALITY.--Every municipality shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Community Development Law, including but not necessarily limited to the following powers:

A. to undertake and carry out community development projects within its area of operation, including clearance and redevelopment, rehabilitation, conservation and development activities and programs; to make, enter into and execute contracts and other agreements and instruments necessary or convenient to the exercise of its powers under the Community Development Law; and to disseminate slum clearance, prevention of blight and community development information;

B. to provide, arrange or contract for the furnishing or repair by any public or private person or agency for services, privileges, works, streets, roads, public utilities, public buildings or other facilities for or in connection with a community development project; to, within its area of operation, install, acquire, construct, reconstruct, maintain and operate streets, utilities, parks, playgrounds, public buildings, including but not limited to parking facilities, transportation centers, public safety buildings and other public improvements or facilities as may be required by the municipality, the state or a political subdivision of the state; and to agree to any conditions that it may deem reasonable and appropriate that are attached to federal financial assistance and imposed pursuant to federal law, including conditions relating to the determination of prevailing salaries or wages or compliance with federal and state labor standards, compliance with federal property acquisition policy and the provision of relocation

assistance in accordance with federal law, in the undertaking or carrying out of a community development project; and to include in any contract let in connection with the project provisions to fulfill any of these conditions as it may deem reasonable and appropriate; provided, however, that all purchases of personal property shall be in accordance with the Procurement Code;

C. within its area of operation, to inspect any building or property in any community development area in order to make surveys, appraisals, soundings or test borings and to obtain an order for this purpose from a court of competent jurisdiction in the event inspection is denied by the property owner or occupant; to acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain or otherwise any real property or personal property for its administrative or project purposes, together with any improvements thereon; to hold, improve, clear or prepare for redevelopment any such property; to mortgage, pledge, hypothecate or otherwise encumber or dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the municipality against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of the Community Development Law. However, no statutory provisions with respect to the acquisition, clearance or disposition of real property by public bodies shall restrict a municipality or other public body exercising powers under the Community Development Law in the exercise of its functions with respect to a community development project unless the legislature shall specifically so state;

D. to invest any community development project funds held in reserve or sinking funds or other project funds that are not required for immediate disbursement in property or securities in which municipalities may legally invest funds subject to their control; to redeem bonds as have been issued pursuant to Section 3-60-30 NMSA 1978 at the redemption price established in the bonds or to purchase the bonds at less than redemption price. All bonds so redeemed or purchased shall be canceled;

E. to borrow money subject to those procedures and limitations as may be provided in the constitution of New Mexico or the Municipal Code and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the federal government, the state, the county or other public body or from any sources, public or private, for the purposes of the Community Development Law; and to give security as may be required and subject to the provisions and limitations of general law except as may otherwise be provided by the Community Development Law and to enter into and carry out contracts in connection therewith. A municipality may include in any contract for financial assistance with the federal government for a community development project conditions imposed pursuant to federal law and that the municipality may deem reasonable or appropriate and that are not inconsistent with the purposes of the Community Development Law;

F. within its area of operation, to make all plans necessary for the carrying out of the purposes of the Community Development Law and to contract with any person,

public or private, in making and carrying out the plans and to adopt or approve, modify and amend the plans. The plans may include, without limitation:

- (1) a general plan for development of the community as a whole;
- (2) community development plans for specific areas;
- (3) plans for programs of voluntary or assisted repair and rehabilitation of buildings and improvements;
- (4) plans for the enforcement of state and local laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition or removal of buildings and improvements; and
- (5) appraisals, title searches, surveys, studies and other preliminary plans and work necessary to prepare for the undertaking of community development projects.

The municipality is authorized to develop, test and report methods and techniques and carry out demonstrations and other activities for the prevention and the elimination of slums and urban blight and to pay for, accept and utilize grants of funds from the federal government for such purposes;

G. to prepare plans and provide reasonable assistance for the relocation of families displaced from a community development area to the extent essential for acquiring possession of and clearing the area or its parts to permit the carrying out of the community development project;

H. to appropriate, under existing authority, the funds and make expenditures necessary to carry out the purposes of the Community Development Law and, under existing authority, to levy taxes and assessments for such purposes; to close, vacate, plan or replan streets, roads, sidewalks, ways or other places; in accordance with applicable law or ordinances, to plan or replan, zone or rezone any part of the municipality or make exceptions from building regulations; and to enter into agreements with a community development agency vested with community development project powers under Section 3-60-34 NMSA 1978, which agreements may extend over any period, notwithstanding any provision or rule of law to the contrary, respecting action to be taken by the municipality pursuant to any of the powers granted by the Community Development Law;

I. within its area of operation, to organize, coordinate and direct the administration of the provisions of the Community Development Law as they apply to the municipality in order that the objective of remedying slum and blighted areas and preventing the causes within the municipality may be most effectively promoted and achieved; and to establish any new office or offices of the municipality or to reorganize existing offices as necessary;

J. to acquire real property, in addition to power elsewhere conferred in the Community Development Law, that is appropriate for the preservation or restoration of historic sites; the beautification of urban land; the conservation of open spaces, natural resources and scenic areas; the provision of recreational opportunities; or is to be used for public purposes; and

K. to engage in any or all of the following activities as part of a community development project:

(1) acquisition, construction, reconstruction or installation of public works, facilities and site or other improvements, including but not limited to neighborhood facilities, senior citizen centers, historic properties, utilities, streets, street lights, water and sewer facilities, including connections for residential users, foundations and platforms for air-rights sites, pedestrian malls and walkways, parks, playgrounds and other recreation facilities, flood and drainage facilities, parking facilities, solid waste disposal facilities and fire protection or health facilities that serve designated community development areas;

(2) special projects directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly persons and persons with disabilities;

(3) provision of public services in the community development area that are not otherwise available in the area, including but not limited to the provisions of public services directed to the employment, economic development, crime prevention, child care, health, drug abuse, special education, welfare or recreation needs of the people who reside in the community development area;

(4) payment of the nonfederal share of any federal grant-in-aid program to the municipality that will be a part of a community development project;

(5) payment of relocation costs and assistance to individuals, families, businesses, organizations and farm operations displaced as a direct result of a community development project in accordance with applicable law governing such payment; and

(6) payment of reasonable administrative costs and carrying charges related to the planning and execution of community development plans and projects.

Payments made by the municipality or community development agency under the terms of a contract for reconstruction or rehabilitation of private property shall be made from a special fund created for that purpose and shall not be paid directly to the property owner but shall instead be paid to the contractor by the municipality or agency from such fund upon proper authorization of the property owner and notification that the terms of the contract have been fulfilled. However, all such rehabilitation contracts shall be between the property owner and contractor after a sealed bidding procedure and award of contract approved by the municipality have taken place."

## Chapter 46 Section 6 Laws 2007

Section 6. Section 9-7-4.1 NMSA 1978 (being Laws 2004, Chapter 51, Section 1) is amended to read:

### "9-7-4.1. COMPREHENSIVE STRATEGIC PLAN FOR HEALTH.--

A. The department, in conjunction with the New Mexico health policy commission and other state agencies, pursuant to Section 9-7-11.1 NMSA 1978, shall develop a comprehensive strategic plan for health that emphasizes prevention, personal responsibility, access and quality.

B. The department shall publish the comprehensive strategic plan for health by July 1, 2004 and July 1 of subsequent even-numbered years. By July 1 of odd-numbered years, the department shall review and update or amend the plan in response to changes and developments.

C. The department shall include the legislature, health care providers, consumer and patient advocates, health care financing organizations, managed care organizations, major insurers in the state, the human services department, the children, youth and families department, the aging and long-term services department, pharmaceutical manufacturers and other stakeholders in its development of the comprehensive strategic plan for health so as to give geographic representation to all areas of the state. The department shall ensure that public participation and public input are integrated into the planning process. The department shall convene regional meetings on the proposed plan to allow public review and comment, including oral and written testimony, pursuant to the Open Meetings Act.

D. The department shall consult with the governments of Indian nations, tribes and pueblos located wholly or partially within New Mexico to include Indian nations, tribes and pueblos in the development of the comprehensive strategic plan for health.

E. The department shall report its findings, recommendations and goals in its biennial comprehensive strategic plan for health. The plan shall address the following areas and others that the governor and the legislature may from time to time request:

(1) a summary of the state's health care system that includes the financial, administrative and delivery structure in both the public and private sector;

(2) the diseases, injuries and risk factors for physical, behavioral and oral health that are the greatest cause of illness, injury or death in the state, with special attention to and recognition of the disparities that currently exist for different population groups;

(3) key indicators of and barriers to health care coverage and access, with specific emphasis on reducing the number of uninsured New Mexicans;

(4) the role of the department, other state agencies and the private sector in identifying strategies and interventions to provide health care coverage, access and quality;

(5) a continuum of care model that emphasizes prevention, early intervention and health promotion and that includes public health services, emergency medical services, primary care, acute care, specialized care, tertiary care and long-term care;

(6) health education, wellness, nutrition and exercise initiatives that emphasize personal health responsibility;

(7) workforce initiatives to identify, recruit and retain health care professionals;

(8) health care facility infrastructure, capacity, capitalization and financial viability in both the public and private sector;

(9) licensing, credentialing, oversight and tracking initiatives designed to improve health care quality and outcome measurements;

(10) programs, services and activities designed to address the needs of persons who have a disability, are elderly or have special needs;

(11) anticipated demands and challenges on the health care system as the need for long-term care services increases;

(12) data and information addressing key health status and system indicators, statistics, benchmarks, targets and goals for the state and comparing it nationally, regionally and to other states of similar size and demographics; provided that individually identifiable health information and other proprietary information is protected as required by state or federal law; and

(13) planning and response to public health emergencies, including bioterrorism, pandemic flu, disease outbreaks and other situations that will require a coordinated response by the health care system."

## **Chapter 46 Section 7 Laws 2007**

Section 7. Section 9-8-13 NMSA 1978 (being Laws 1977, Chapter 252, Section 15, as amended) is amended to read:

"9-8-13. AUTHORITY TO CONDUCT SOCIAL SERVICES.--

A. The social services division of the department has authority to:

(1) establish, administer and supervise child welfare activities and social services to children, including but not limited to:

(a) children placed for adoption;

(b) homeless, dependent and neglected children;

(c) children in foster family homes or institutions because of dependency or neglect; and

(d) children with a physical or mental disability who may need such services;

(2) establish, administer and supervise social services for adults;

(3) license foster homes; and

(4) prescribe such regulations as it deems necessary to enforce and comply with this section and the Child Placement Agency Licensing Act and inspect and require reports from all private institutions, boarding homes, shelter care homes, group homes, foster homes and other facilities providing assistance, care or other direct services to children or aged, blind, disabled or other dependent persons.

B. Nothing contained in this section or in the Human Services Department Act shall authorize the secretary:

(1) to establish or prescribe standards or regulations for, or otherwise regulate programs for or services to, children in group homes excepting only:

(a) the right to inspect and require reports from group homes as may be reasonably necessary to carry out any functions that may otherwise be specifically granted the department by law; and

(b) the right to require annual reports from group homes stating the name, address and telephone number of: 1) their principal offices; 2) their residential facilities for the care of children; 3) the membership of their boards of directors or other governing bodies if any; and 4) the persons in charge of the group homes and of their residential facilities; or

(2) to accept any delegation from or to exercise, perform or participate in any functions or duties, including any investigations or inspections, of the department of health or of its secretary that relate to group homes.

As used in this subsection, "group home" includes any home the principal function of which is to care for a group of children on a twenty-four-hour-a-day residential basis and that receives no funds as such directly from or through the

department and that is a member of any state or national association that requires it to observe standards comparable to pertinent recognized state or national group home standards for the care of children, such as the New Mexico Christian child care association, the national association of homes for children or the council on accreditation or that is certified by any such organization as complying with such standards."

## **Chapter 46 Section 8 Laws 2007**

Section 8. Section 21-2-6 NMSA 1978 (being Laws 1978, Chapter 54, Section 1, as amended) is amended to read:

"21-2-6. STATEWIDE PLANNING--PARTICIPATING AGENCIES AND PERSONS.--

A. The state commission in carrying out its planning activities for post-secondary education shall consult with and invite the active participation of:

(1) representatives of post-secondary educational institutions of the several types enumerated in Paragraph (2) of Subsection A of Section 21-2-2 NMSA 1978;

(2) the public education commission;

(3) the public education department;

(4) representatives of public and private elementary and secondary schools;

(5) the secretary of labor;

(6) the tourism department;

(7) the apprenticeship council;

(8) the economic development department;

(9) the state advisory council on vocational education;

(10) the secretary of finance and administration or the secretary's designee;

(11) persons familiar with the education needs of persons with a disability and persons disadvantaged by economic, racial or ethnic status;

(12) representatives of business, industry, organized labor and agriculture;

(13) the general public; and

(14) private in-state post-secondary institutions.

B. Whenever the planning activities carried out under the provisions of Section 21-2-5 NMSA 1978 are concerned with the types of post-secondary education enumerated in Subparagraphs (a) through (e) of Paragraph (1) of Subsection A of Section 21-2-2 NMSA 1978, the state commission shall directly involve the public education commission and the public education department in all planning activities."

## **Chapter 46 Section 9 Laws 2007**

Section 9. Section 21-6-2 NMSA 1978 (being Laws 1899, Chapter 42, Section 3, as amended) is amended to read:

"21-6-2. PURPOSES--ADMISSION AGE--ADMISSION OF NONRESIDENTS--TUITION--CHANGE OF NAME--EXPENDITURES FOR GRADUATES IN COLLEGE--AUDIOLOGICAL CLINIC--SCHOLARSHIPS--PRESIDENT'S POWERS.--

A. Except as otherwise provided in this section, the New Mexico school for the deaf shall be devoted exclusively to the care and instruction of persons of either sex who are residents within the state and between the ages of five years and the age of majority and who are deaf or hard-of-hearing; provided that the board of regents, in its discretion, may admit residents of this state who have attained the age of one year for daytime care and instruction, but not for residential purposes, and may also admit residents of this state who are over the age of majority.

B. The board of regents may make expenditures for undergraduate collegiate expenses of graduates of the New Mexico school for the deaf. The board of regents may permit the use of facilities of the school by public and private agencies in the state in carrying on a conservation-of-hearing program when the agencies participate in the cost of the operation, upon such terms and conditions as the board of regents may prescribe.

C. The board of regents may contract with the veterans' administration and the vocational rehabilitation division of the public education department to provide instruction for adults with a disability in vocations or lip reading taught at the school, but such adults may not be housed at the school. The board of regents may lease for a nominal sum for periods not to exceed three months to the public schools, institutions and agencies of the state any hearing test equipment owned by the school.

D. The board of regents, for the purpose of creating a source of teachers of the deaf, may pay tuition and other necessary expenses of graduates of New Mexico colleges desiring to take training to teach the deaf in out-of-state training centers and intending to make the teaching of the deaf in New Mexico their profession.

E. All instruction shall be free. Deaf or hard-of-hearing children from other states or territories may be received and educated in the school under such rules and regulations as the board of regents may prescribe, but in no event shall such children be admitted except upon the payment or guaranty of at least one thousand dollars (\$1,000) for the school year, on the basis of nine months for a school year. The president of the board of regents is authorized to make and enter into on behalf of the school all necessary agreements and contracts with the United States government and the proper authorities of other states and territories for the reception and education of such children, and the president is further authorized to receive and receipt for all money paid upon such account and to endorse and transfer all checks, vouchers or other evidences of payment made or received in behalf of the school."

## **Chapter 46 Section 10 Laws 2007**

Section 10. Section 21-21G-3 NMSA 1978 (being Laws 1988, Chapter 111, Section 3, as amended) is amended to read:

"21-21G-3. DEFINITIONS.--As used in the Graduate Scholarship Act:

A. "academic year" means any consecutive period of two semesters, three quarters or other comparable units commencing with the fall term each year;

B. "award recipient" means a student awarded a graduate scholarship;

C. "department" means the higher education department;

D. "eligible institution" means any graduate-degree-granting state university accredited by the north central association of colleges and secondary schools;

E. "graduate and professional field" means any program of study intended to result in a master's or doctoral degree, excluding the degree in medicine; and

F. "groups underrepresented in graduate education" means women, minorities, persons with a visual impairment or other physical disability and other groups who have traditionally been underrepresented in the specific area of graduate study or profession for which the scholarship is awarded."

## **Chapter 46 Section 11 Laws 2007**

Section 11. Section 22-14-1 NMSA 1978 (being Laws 1967, Chapter 16, Section 191) is amended to read:

"22-14-1. DEFINITIONS.--As used in Sections 22-14-2 through 22-14-16 NMSA 1978:

A. "vocational education" means vocational or technical training or retraining conducted as part of a program designed to enable an individual to engage in a remunerative occupation. Vocational education may provide but is not limited to guidance and counseling, vocational instruction, training for vocational education instructors, transportation and training material and equipment;

B. "person with a disability" means a person with a physical or mental disability that constitutes a substantial handicap to employment but that is of such a nature that vocational rehabilitation may be reasonably expected to enable the person to engage in a remunerative occupation;

C. "vocational rehabilitation" means services or training necessary to enable a person with a disability to engage in a remunerative occupation. Vocational rehabilitation may provide but is not limited to medical or vocational diagnosis, vocational guidance, counseling and placement, rehabilitation training, physical restoration, transportation, occupational licenses, customary occupational tools or equipment, maintenance and training material and equipment; and

D. "federal aid funds" means funds, gifts or grants received by the state under any federal aid for vocational education or vocational rehabilitation."

## **Chapter 46 Section 12 Laws 2007**

Section 12. Section 22-14-16 NMSA 1978 (being Laws 1967, Chapter 16, Section 204) is amended to read:

"22-14-16. ADMISSION TO STATE EDUCATIONAL INSTITUTIONS-- EXEMPTION FROM CERTAIN FEES.-- Upon written request of the department, all state educational institutions shall accept for admission, without any charge for any fees except tuition charges, a person with a disability meeting the standards of the institution."

## **Chapter 46 Section 13 Laws 2007**

Section 13. Section 24-1G-4 NMSA 1978 (being Laws 2005, Chapter 55, Section 4) is amended to read:

"24-1G-4. TELEHEALTH COMMISSION CREATED--POWERS AND DUTIES-- MEMBERSHIP.--

A. The "New Mexico telehealth commission" is created. The commission is administratively attached to the department of health, which shall work in conjunction with the New Mexico health policy commission, in accordance with the Executive Reorganization Act.

B. The commission shall consist of no more than twenty-five members with members, one-third of whom shall be from rural areas, chosen from the following categories, all of whom shall be appointed by and serve at the pleasure of the governor:

- (1) health care facilities;
- (2) health care practitioners;
- (3) health care workforce educators;
- (4) telehealth technology experts;
- (5) the telecommunications industry;
- (6) the business community;
- (7) health care insurance providers or other health care payers;
- (8) Indian nations, tribes and pueblos;
- (9) legislators;
- (10) state agencies responsible for:
  - (a) telecommunications;
  - (b) public health;
  - (c) medicaid and social services;
  - (d) workforce development;
  - (e) children's health and social services;
  - (f) services for the elderly and persons with a disability;
  - (g) criminal justice;
  - (h) health policy and planning; and
  - (i) education; and

(11) other members as the governor may appoint to ensure appropriate cultural and geographic representation and the interests of the public.

C. The commission shall:

(1) identify how telehealth can be used to increase access to care and implement state comprehensive health plans;

(2) identify barriers to telehealth utilization and expansion, including payment, infrastructure, training and workforce availability;

(3) inventory the state's telehealth assets, map available telecommunications infrastructure and examine the financial impact of failing to develop the state's telehealth capacities;

(4) coordinate public and private sector initiatives to enhance networking, portal development and connectivity and to expand telehealth and telecommunications capacity;

(5) establish such subcommittees as the commission deems necessary to fulfill its purpose, powers and duties or to address specific telehealth issues;

(6) identify specific actions to increase collaborative efforts and public-private partnerships to increase the use of telehealth for health care access development, patient outcome improvement, patient and workforce education and health care practitioner recruitment and development;

(7) develop and disseminate specific telehealth standards and guidelines to ensure quality of care, positive health outcomes, appropriate use of technology and protection of privacy and confidentiality;

(8) review and comment on initiatives, projects or grant applications to ensure telehealth standards and guidelines are met and maximum collaboration and cooperation across the state is encouraged;

(9) meet at least once each quarter at the call of the chair or vice chair, who shall be designated by the governor from among the membership; and

(10) report annually to the governor and the legislature on the state of the telehealth system and the adequacy and allocation of telehealth services throughout the state, providing the governor and the legislature with specific recommendations for improving telehealth and related service systems.

D. A majority of the members of the commission constitutes a quorum for the transaction of business."

## **Chapter 46 Section 14 Laws 2007**

Section 14. Section 24-2-1 NMSA 1978 (being Laws 1977, Chapter 253, Section 40) is amended to read:

"24-2-1. AUTHORITY TO CONDUCT SERVICES FOR CHILDREN WITH A DISABILITY.--The public health division of the department of health has authority to establish, administer and supervise activities to children who have a physical disability or whose condition may become a disability. The public health division also may supervise the administration of those services to children with a disability that are not administered directly by it."

## **Chapter 46 Section 15 Laws 2007**

Section 15. Section 24-9A-1 NMSA 1978 (being Laws 1979, Chapter 132, Section 1, as amended) is amended to read:

"24-9A-1. DEFINITIONS.--As used in the Maternal, Fetal and Infant Experimentation Act:

A. "viability" means that stage of fetal development when the unborn child is potentially able to live outside the mother's womb, albeit with artificial aid;

B. "conception" means the fertilization of the ovum of a human female by the sperm of a human male;

C. "health" means physical or mental health;

D. "clinical research" means any biomedical or behavioral research involving human subjects, including the unborn, conducted according to a formal procedure. The term is to be construed liberally to embrace research concerning all physiological processes in human beings and includes research involving human in vitro fertilization, but shall not include diagnostic testing, treatment, therapy or related procedures conducted by formal protocols deemed necessary for the care of the particular patient upon whom such activity is performed and shall not include human in vitro fertilization performed to treat infertility; provided that this procedure shall include provisions to ensure that each living fertilized ovum, zygote or embryo is implanted in a human female recipient, and no physician may stipulate that a woman must abort in the event the pregnancy should produce a child with a disability. Provided that emergency medical procedures necessary to preserve the life or health of the mother or the fetus shall not be considered to be clinical research;

E. "subject at risk", "subject" or "at risk" means any person who may be exposed to the likelihood of injury, including physical or psychological injury, as a consequence of participation as a subject in:

(1) any research, development or related activity that departs from the application of those established and accepted methods deemed necessary to meet the person's needs;

(2) controlled research studies necessary to establish accepted methods designed to meet the person's needs; or

(3) research activity that poses a significant risk to the subject;

F. "significant risk" means an activity that is likely to cause disfigurement or loss or impairment of the function of any member or organ;

G. "fetus" means the product of conception from the time of conception until the expulsion or extraction of the fetus or the opening of the uterine cavity, but shall not include the placenta, extraembryonic membranes, umbilical cord, extraembryonic fluids and their resident cell types and cultured cells;

H. "live-born infant" means an offspring of a person that exhibits heartbeat, spontaneous respiratory activity, spontaneous movement of voluntary muscles or pulsation of the umbilical cord if still attached to the infant ex utero; provided the Maternal, Fetal and Infant Experimentation Act does not apply to a fetus or infant absent the characteristics set forth in this subsection;

I. "infant" means an offspring of a human being from the time it is born until the end of its first chronological year;

J. "born" means the time the head or any other part of the body of the fetus emerges from the vagina or the time the uterine cavity is opened during a caesarean section or hysterotomy; and

K. "in vitro fertilization" means any fertilization of human ova that occurs outside the body of a female, either through admixture of donor human sperm and ova or by any other means."

## **Chapter 46 Section 16 Laws 2007**

Section 16. Section 27-1-2 NMSA 1978 (being Laws 1937, Chapter 18, Section 3) is amended to read:

"27-1-2. POWERS OF HUMAN SERVICES DEPARTMENT.--

A. The human services department is an agency of the state and shall at all times be under the exclusive control of this state. The management and control of the human services department is vested in the secretary of human services.

B. Subject to the constitution of New Mexico, the human services department has the power to:

(1) sue and, with the consent of the legislature, be sued;

- (2) adopt and use a corporate seal;
  - (3) have succession in its corporate name;
  - (4) make contracts as authorized in Chapter 27 NMSA 1978 to carry out the purposes of that chapter;
  - (5) adopt, amend and repeal bylaws, rules and regulations;
  - (6) purchase, lease and hold real and personal property necessary or convenient for the carrying out of its powers and duties, to exercise the right of eminent domain to acquire such real property in the same manner as the state now exercises that right and to dispose of any property acquired in any manner;
  - (7) have such powers as may be necessary or appropriate for the exercise of the powers specifically conferred upon it in Chapter 27 NMSA 1978;
  - (8) receive and have custody for protection and administration, disburse, dispose of and account for funds, commodities, equipment, supplies and any kind of property given, granted, loaned or advanced to the state for public assistance, public welfare, social security or any other similar purpose;
  - (9) enter into reciprocal agreements with public welfare agencies of other states relative to the provision for relief or assistance to transients and nonresidents;
  - (10) establish and administer programs of old age assistance and aid to dependent children and persons with a visual impairment;
  - (11) establish and administer a program of services for children with a disability or who have a condition that may lead to a disability, and to supervise the administration of those services that are not administered directly by it;
  - (12) establish, extend and strengthen public welfare services for children;
- and
- (13) establish and administer a program for general relief."

## **Chapter 46 Section 17 Laws 2007**

Section 17. Section 27-1-3 NMSA 1978 (being Laws 1937, Chapter 18, Section 4, as amended) is amended to read:

"27-1-3. ACTIVITIES OF HUMAN SERVICES DEPARTMENT.--The department shall be charged with the administration of all the welfare activities of the state as provided in Chapter 27 NMSA 1978, except as otherwise provided for by law. The department shall, except as otherwise provided by law:

A. administer old age assistance, aid to dependent children, assistance to persons with a visual impairment or other physical disability and general relief;

B. administer all aid or services to children with a disability, including the extension and improvement of services for children with such a disability, insofar as practicable under conditions in this state, provide for locating children who have a disability or a condition that may become a disability, provide corrective and any other services and care and facilities for diagnosis, hospitalization and after-care for such children and supervise the administration of those services that are not administered directly by the department;

C. administer and supervise all child welfare activities, service to children placed for adoption, service and care of homeless, dependent and neglected children, service and care for children in foster family homes or in institutions because of dependency or delinquency and care and service to a child who because of a physical or mental disability may need such service;

D. formulate detailed plans, make rules and regulations and take action deemed necessary or desirable to carry out the provisions of Chapter 27 NMSA 1978 and that is not inconsistent with the provisions of that chapter;

E. cooperate with the federal government in matters of mutual concern pertaining to public welfare and public assistance, including the adoption of such methods of administration as are found by the federal government to be necessary for the efficient operation of the plan for public welfare and assistance;

F. assist other departments, agencies and institutions of local, state and federal governments when so requested, cooperate with such agencies when expedient in performing services in conformity with the purposes of Chapter 27 NMSA 1978 and cooperate with medical, health, nursing and welfare groups, any state agency charged with the administration of laws providing for vocational rehabilitation of persons with a physical disability and organizations within the state;

G. act as the agent of the federal government in welfare matters of mutual concern in conformity with the provisions of Chapter 27 NMSA 1978 and in the administration of any federal funds granted to this state, to aid in furtherance of any such functions of the state government;

H. establish in counties or in districts, which may include two or more counties, local units of administration to serve as agents of the department;

I. at its discretion, establish local boards of public welfare for such territory as it may see fit and by rule and regulation prescribe the duties of the local board;

J. administer such other public welfare functions as may be assumed by the state after June 19, 1987;

K. carry on research and compile statistics relative to the entire public welfare program throughout the state, including all phases of dependency, defectiveness, delinquency and related problems, and develop plans in cooperation with other public and private agencies for the prevention as well as treatment of conditions giving rise to public welfare problems; and

K. inspect and require reports from all private institutions, boarding homes and agencies providing assistance, care or other direct services to persons who are elderly, who have a visual impairment, who have a physical or developmental disability or who are otherwise dependent.

Nothing contained in this section shall be construed to authorize the department to establish or prescribe standards or regulations for or otherwise regulate programs or services to children in group homes as defined in Section 9-8-13 NMSA 1978."

## **Chapter 46 Section 18 Laws 2007**

Section 18. Section 27-2B-5 NMSA 1978 (being Laws 1998, Chapter 8, Section 5 and Laws 1998, Chapter 9, Section 5, as amended) is amended to read:

"27-2B-5. WORK REQUIREMENTS--WORK PARTICIPATION RATES.--

A. The following qualify as work activities:

- (1) unsubsidized employment, including self-employment;
- (2) subsidized private sector employment, including self-employment;
- (3) subsidized public sector employment;
- (4) work experience, including work associated with the refurbishing of publicly assisted housing if sufficient private sector employment is not available;
- (5) on-the-job training;
- (6) job search and job readiness assistance, as long as the department complies with the federal act;
- (7) community service programs;
- (8) vocational education, except that vocational education shall not qualify as a work activity for longer than is provided by the federal act;
- (9) job skills training activities directly related to employment;

(10) education directly related to employment for a participant who has not received a high school diploma or a certificate of high school equivalency;

(11) satisfactory attendance at a secondary school or course of study leading to a certificate of general equivalency in the case of a participant who has not completed secondary school or received such a certificate; and

(12) the provision of child care services to a participant who is participating in a community service program.

B. The department shall recognize community service programs and job training programs that are operated by an Indian nation, tribe or pueblo.

C. The department may not require a participant to work more than four hours per week over the work requirement rate set pursuant to the federal act.

D. The department shall require a parent, caretaker or other adult who is a member of a benefit group to engage in a work activity once the department determines the person is ready to engage in a work activity or once the person has received cash assistance or services for twenty-four months or as otherwise required by the federal act, whether or not consecutive, whichever is earlier.

E. The following qualify as temporary alternative work activities that the department may establish for no longer than twelve weeks except as otherwise provided:

(1) participating in parenting classes, money management classes or life skills training;

(2) participating in a certified alcohol or drug addiction program;

(3) in the case of a homeless benefit group, finding a home;

(4) in the case of a participant who is a victim of domestic violence residing in a domestic violence shelter or receiving counseling or treatment or participating in criminal justice activities directed at prosecuting the domestic violence perpetrator, for no longer than twenty-four weeks; and

(5) in the case of a participant who does not speak English, participating in a course in English as a second language.

F. Subject to the availability of funds, the department in cooperation with the labor department, Indian affairs department and other appropriate state agencies may develop projects to provide for the placement of participants in work activities, including the following:

- (1) participating in unpaid internships with private and government entities;
- (2) refurbishing publicly assisted housing;
- (3) volunteering at a head start program or a school;
- (4) weatherizing low-income housing; and

(5) restoring public sites and buildings, including monuments, parks, fire stations, police buildings, jails, libraries, museums, auditoriums, convention halls, hospitals, buildings for administrative offices and city halls.

G. If a participant is engaged in full-time post-secondary education studies or an activity set out in Paragraphs (9) through (11) of Subsection A of this section, the participant shall engage in another work activity at the same time. Additionally, for two-parent families that receive federally funded child-care assistance, the participant's spouse shall engage in a work activity set out in Paragraphs (1) through (5) and (7) of Subsection A of this section unless the participant suffers from a temporary or complete disability that bars the participant from engaging in a work activity or the participant is barred from engaging in a work activity because the participant provides sole care for a person with a disability.

H. A participant engaged in post-secondary education studies shall make reasonable efforts to obtain a loan, scholarship, grant or other assistance to pay for costs and tuition and the department shall disregard those amounts in the eligibility determination.

I. For as long as the described conditions exist, the following are exempt from the work requirement:

- (1) a participant barred from engaging in a work activity because the participant has a temporary or permanent disability;
- (2) a participant over age sixty;
- (3) a participant barred from engaging in a work activity because the participant provides the sole care for a person with a disability;
- (4) a single custodial parent caring for a child less than twelve months old for a lifetime total of twelve months;
- (5) a single custodial parent caring for a child under six years of age if the parent is unable to obtain child care for one or more of the following reasons:

(a) unavailability of appropriate child care within a reasonable distance from the parent's home or work as defined by the children, youth and families department;

(b) unavailability or unsuitability of informal child care by a relative under other arrangements as defined by the children, youth and families department; or

(c) unavailability of appropriate and affordable formal child-care arrangements as defined by the children, youth and families department;

(6) a pregnant woman during her last trimester of pregnancy;

(7) a participant prevented from working by a temporary emergency or a situation that precludes work participation for thirty days or less;

(8) a participant who demonstrates by reliable medical, psychological or mental reports, court orders or police reports that family violence or threat of family violence effectively bars the participant from employment; and

(9) a participant who demonstrates good cause of the need for the exemption."

## **Chapter 46 Section 19 Laws 2007**

Section 19. Section 27-2B-6 NMSA 1978 (being Laws 1998, Chapter 8, Section 6 and Laws 1998, Chapter 9, Section 6, as amended by Laws 2003, Chapter 311, Section 3 and Laws 2003, Chapter 432, Section 3) is amended to read:

"27-2B-6. DURATIONAL LIMITS.--

A. Pursuant to the federal act, on or after July 1, 1997 a participant may receive federally funded cash assistance and services for up to sixty months.

B. During a participant's fourth, sixth and eighth semiannual reviews, the department shall examine the participant's progress to determine if the participant has successfully completed an educational or training program or increased the number of hours the participant is working as required by the federal act. The department may refer the participant to alternative work activities or provide additional services to address possible barriers to employment facing the participant.

C. Up to twenty percent of the population of participants may be exempted from the sixty-month durational limit set out in Subsection A of this section because of hardship or because those participants are battered or subject to extreme cruelty.

D. For the purposes of this section, a participant has been battered or subjected to extreme cruelty if the participant can demonstrate by reliable medical, psychological

or mental reports, court orders or police reports that the participant has been subjected to and currently is affected by:

- (1) physical acts that result in physical injury;
- (2) sexual abuse;
- (3) being forced to engage in nonconsensual sexual acts or activities;
- (4) threats or attempts at physical or sexual abuse;
- (5) mental abuse; or

(6) neglect or deprivation of medical care except when the deprivation is based by mutual consent on religious grounds.

E. For the purposes of this section, a hardship exception applies to a person who demonstrates through reliable medical, psychological or mental reports, social security administration records, court orders, police reports or department records that the person is a person:

- (1) who is barred from engaging in a work activity because the person has a temporary or permanent disability;
- (2) who is the sole provider of home care to a family member who is ill or has a disability;
- (3) whose ability to be gainfully employed is affected by domestic violence;
- (4) whose application for supplemental security income is pending in the application or appeals process and who:

(a) meets the criteria of Paragraph (1) of this subsection; or

(b) was granted a waiver from the work requirement pursuant to Paragraph (1) of Subsection I of Section 27-2B-5 NMSA 1978 in the last twenty-four months; or

(5) who otherwise qualifies for a hardship exception as defined by the department.

F. Pursuant to the federal act, the department shall not count a month of receipt of cash assistance or services toward the sixty-month durational limit if during the time of receipt the participant:

(1) was a minor and was not the head of a household or married to the head of a household; or

(2) lived in Indian country, as defined in the federal act, if the most reliable data available with respect to the month indicate that at least fifty percent of the adults living in Indian country or in the village were not employed."

## **Chapter 46 Section 20 Laws 2007**

Section 20. Section 27-4-2 NMSA 1978 (being Laws 1973, Chapter 311, Section 2, as amended) is amended to read:

"27-4-2. DEFINITIONS.--As used in the Special Medical Needs Act:

A. "department" or "division" means the income support division of the human services department;

B. "board" means the division;

C. "aged person" means a person who has attained the age of sixty-five years and does not have a spouse financially able, according to regulations of the division, to furnish support;

D. "person with a disability" means a person who has attained the age of eighteen years and is determined to have a permanent and total disability, according to regulations of the division; and

E. "blind person" means a person who is determined to be blind according to regulations of the division."

## **Chapter 46 Section 21 Laws 2007**

Section 21. Section 27-4-3 NMSA 1978 (being Laws 1973, Chapter 311, Section 3) is amended to read:

"27-4-3. PERSONS WITH SPECIAL NEEDS.--

A. The division shall by regulation establish a program to provide essential medical care for persons who are elderly or blind or who have a disability and who are not eligible for public assistance under the Public Assistance Act and who have a serious medical condition that will as a reasonable medical probability lead to death in the near future.

B. Such medical condition shall be certified by an individual licensed under state law to practice medicine or osteopathy. The medical care shall be reviewed and approved according to regulations of the division."

## **Chapter 46 Section 22 Laws 2007**

Section 22. Section 27-9-1 NMSA 1978 (being Laws 1983, Chapter 323, Section 1) is amended to read:

"27-9-1. PROGRAM--DEMONSTRATIONS.--The human services department, in cooperation with the department of health, is authorized to administer demonstration programs that provide in-home and coordinated community care services to the frail elderly and to persons with a disability who would otherwise require institutionalization. The programs authorized by this section shall serve both those eligible and not eligible for federal medical assistance programs."

## **Chapter 46 Section 23 Laws 2007**

Section 23. Section 27-13-7 NMSA 1978 (being Laws 2003, Chapter 207, Section 1) is amended to read:

"27-13-7. FISCAL INTERMEDIARY--EXEMPTIONS--WORKERS' COMPENSATION.--

A. A fiscal intermediary shall not be subject to vicarious liability as an employer or principal for a wrongful act committed by a personal care attendant if the attendant:

(1) is not a current or former employee of the fiscal intermediary;

(2) has not received training or instruction from the fiscal intermediary with respect to providing personal care services to a person with a disability, not including administrative paper work;

(3) has been hired by and received training or instruction from the consumer or the consumer's authorized representative to provide personal care to the consumer; and

(4) provides basic assistance with daily living activities that do not require the education, certification or training of a licensed health care practitioner.

B. A fiscal intermediary may identify a personal care attendant as a covered employee with the fiscal intermediary's workers' compensation carrier solely to provide workers' compensation coverage in the event of a work-related injury. Nothing in this subsection shall be construed to create an employer-employee relationship between the fiscal intermediary and the personal care attendant.

C. Nothing in this section shall be construed to provide the fiscal intermediary with immunity from a claim for a wrongful act committed by the fiscal intermediary or its employees.

D. As used in this section:

(1) "consumer" means a person who is eligible for and receives state-funded or -operated services based on the person's disabilities;

(2) "fiscal intermediary" means a provider that furnishes administrative assistance for a consumer who selects a consumer-directed, rather than consumer-delegated, personal care program;

(3) "personal care attendant" means a person who provides assistance to a consumer with activities of daily living, including bathing, dressing, eating, transportation, shopping and similar activities; and

(4) "personal care program" means a state-funded or -operated support program, including medicaid, that provides the services of a personal care attendant for certain persons with a disability."

## **Chapter 46 Section 24 Laws 2007**

Section 24. Section 28-7-2 NMSA 1978 (being Laws 1967, Chapter 232, Section 2) is amended to read:

"28-7-2. POLICY.--It is the policy of this state to encourage and enable persons who are blind, visually impaired or who have another physical disability to participate fully in the social and economic life of the state and to engage in remunerative employment."

## **Chapter 46 Section 25 Laws 2007**

Section 25. Section 28-7-3 NMSA 1978 (being Laws 1967, Chapter 232, Section 3, as amended) is amended to read:

"28-7-3. EQUAL RIGHT TO USE PUBLIC FACILITIES.--

A. Persons who are blind, visually impaired or who have another physical disability have the same right as others to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities and other public places.

B. Persons who are blind, visually impaired or who have another physical disability are entitled to full and equal accommodations, advantages, facilities and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats or any other public conveyances or modes of transportation, hotels, lodging places, places of public accommodation, amusement or resort and any other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

C. Every totally or partially blind person shall have the right to be accompanied by a guide dog, specially trained for the purpose, in any of the places listed in this section without being required to pay an extra charge for the guide dog; provided that the person shall be liable for any damage done to the property or facilities by the dog.

D. The attorney general, district attorney or any person with a disability may file an action in the judicial district when a building has been built or altered and the work has not been accomplished in accordance with the current uniform building code, other applicable publications and established handicapped standards. The building official shall notify those applying for a permit that they shall comply with established standards. Any interested person may appeal the granting or denial of a waiver to the district court where the building is located. If the court finds that the building owner was required to comply with handicap access standards of the uniform building code and has failed to comply with such standards within a reasonable period of time, then the party filing action shall recover the court costs, attorney fees and appropriate injunctive relief to remedy the violation."

## **Chapter 46 Section 26 Laws 2007**

Section 26. Section 28-7-5 NMSA 1978 (being Laws 1967, Chapter 232, Section 5) is amended to read:

"28-7-5. INTERFERENCE WITH RIGHTS OF BLIND--PENALTY.-- A person, firm or corporation or the agent of a person, firm or corporation who denies or interferes with admittance to or enjoyment of the public facilities enumerated in Section

28-7-3 NMSA 1978 or otherwise interferes with the rights of a blind or visually impaired person or a person who has a physical disability enumerated in the White Cane Law is guilty of a misdemeanor."

## **Chapter 46 Section 27 Laws 2007**

Section 27. Section 28-7-6 NMSA 1978 (being Laws 1967, Chapter 232, Section 6) is amended to read:

"28-7-6. ANNUAL PROCLAMATION OF WHITE CANE SAFETY DAY BY GOVERNOR.--Each year, the governor shall take suitable public notice of October 15 as white cane safety day. The governor shall issue a proclamation in which the governor:

A. comments upon the significance of the white cane;

B. calls upon the citizens of the state to observe the provisions of the White Cane Law and to take precautions necessary to the safety of persons with a disability;

C. reminds the citizens of the state of the policies with respect to persons with a disability declared in the White Cane Law and urges the citizens to cooperate in giving effect to them; and

D. emphasizes the need of the citizens to be aware of the presence of persons with a disability in the community and to keep streets, highways, sidewalks, walkways, public buildings, public facilities, other public places, places of public accommodation, amusement and resort and other places to which the public is invited safe and functional and to offer assistance to persons with a disability upon appropriate occasions."

## **Chapter 46 Section 28 Laws 2007**

Section 28. Section 28-7-7 NMSA 1978 (being Laws 1967, Chapter 232, Section 7) is amended to read:

"28-7-7. POLICY OF STATE ON EMPLOYMENT OF PERSONS WITH A DISABILITY.--It is the policy of this state that a person who is blind, visually impaired or who has another physical disability shall be employed in the state service, the service of the political subdivisions of the state, the public schools and all other employment supported in whole or in part by public funds on the same terms and conditions as others, unless it is shown that the particular disability prevents the performance of the work involved."

## **Chapter 46 Section 29 Laws 2007**

Section 29. Section 28-10-3.1 NMSA 1978 (being Laws 1995, Chapter 95, Section 1, as amended) is amended to read:

"28-10-3.1. FULL-SERVICE GASOLINE STATIONS--DECAL DISPLAY--SERVICE TO PERSON WITH A DISABILITY.--

A. The governor's commission on disability shall design and produce a decal for display in full-service gasoline stations signifying that the gasoline station will provide gasoline pumping, window washing, fluid checks and other services provided at its full-

service island to any properly permitted or certified driver with a disability at a self-service island.

B. Any full-service gasoline station providing the services described in Subsection A of this section may request and shall receive the decal upon application to the governor's commission on disability.

C. No gasoline station shall display the decal issued by the governor's commission on disability unless it provides full service to any driver with a disability at a self-service island.

D. A gasoline station owner or operator who displays a decal signifying that the station will provide additional services to drivers with a disability at a

self-service island and who fails to provide that service shall be subject to revocation of the decal for display according to this section."

## **Chapter 46 Section 30 Laws 2007**

Section 30. Section 28-10-5 NMSA 1978 (being Laws 1973, Chapter 349, Section 5, as amended) is amended to read:

"28-10-5. DISABILITY FUND CREATED.--

A. There is created in the state treasury a "disability fund". All funds, gifts, donations, bequests and other income of the governor's commission on disability shall be deposited by the director of the commission in the fund and shall be appropriated to the commission to further the purpose of Sections 28-10-1 through 28-10-8.1 NMSA 1978 or for the purposes stated by the donor or grantor of the funds.

B. Distributions made to the disability fund from the housing modification for persons with a disability permanent fund shall constitute a separate account in the fund and are appropriated to the governor's commission on disability for the purpose of carrying out a residential accessibility modification program.

C. Money in the disability fund shall not revert but shall be used only as provided in Sections 28-10-1 through 28-10-8.1 NMSA 1978."

## **Chapter 46 Section 31 Laws 2007**

Section 31. Section 28-10-5.1 NMSA 1978 (being Laws 2001, Chapter 226, Section 1) is amended to read:

"28-10-5.1. HOUSING MODIFICATION FOR PERSONS WITH A DISABILITY PERMANENT FUND--INVESTMENT--DISTRIBUTION.--

A. The "housing modification for persons with a disability permanent fund" is created in the state treasury. The fund shall consist of money appropriated to the fund and any gifts, donations or bequests made to the fund. Money in the fund shall be invested by the state investment officer as land grant permanent funds are invested pursuant to Chapter 6, Article 8 NMSA 1978, and earnings from investment of the fund shall be credited to the fund. Money in the fund shall not revert at the end of any fiscal year and shall not be expended for any purpose, except that an annual distribution shall be made to the fund for persons with a disability in accordance with Subsection B of this section.

B. On July 1 of fiscal year 2002 and on July 1 of each fiscal year thereafter, an annual distribution shall be made from the housing modification for persons with a disability permanent fund to the disability fund in an amount equal to three hundred thousand dollars (\$300,000) until that amount is less than an amount equal to five percent of the average of the year-end market values of the housing modification for persons with a disability permanent fund for the immediately preceding five calendar years. Thereafter, the amount of the annual distribution shall be five percent of the average of the year-end market values of the housing modification for persons with a disability permanent fund for the immediately preceding five calendar years."

### **Chapter 46 Section 32 Laws 2007**

Section 32. Section 28-10-9 NMSA 1978 (being Laws 1969, Chapter 129, Section 1) is amended to read:

"28-10-9. SHORT TITLE.--Sections 28-10-9 through 28-10-12 NMSA 1978 may be cited as the "Disability Employment Act"."

### **Chapter 46 Section 33 Laws 2007**

Section 33. Section 28-10-10 NMSA 1978 (being Laws 1969, Chapter 129, Section 2) is amended to read:

"28-10-10. DEFINITION.--As used in the Disability Employment Act, "persons with a disability" includes persons with a mental or physical disability."

### **Chapter 46 Section 34 Laws 2007**

Section 34. Section 28-10-11 NMSA 1978 (being Laws 1969, Chapter 129, Section 3) is amended to read:

"28-10-11. STATE POLICY.--In order to further the efforts of New Mexico in alleviating the problems of persons with a disability, full consideration shall be given to the employment of such persons in state government in positions in which they meet the necessary performance requirements or in positions in which performance requirements can be modified to take advantage of their abilities without detriment to the state service."

### **Chapter 46 Section 35 Laws 2007**

Section 35. Section 28-10-12 NMSA 1978 (being Laws 1969, Chapter 129, Section 4) is amended to read:

"28-10-12. PERSONNEL BOARD--RULES.--The personnel board shall establish rules and procedures consistent with the state policy of employment of persons with a disability. The rules and procedures shall be adopted after consultation with appropriate vocational rehabilitation agencies, state institutions, interested private associations and organizations and interested individuals. Any rules or procedures adopted by the personnel board shall provide that:

A. certification in an appropriate form shall be required from an appropriate agency to the effect that:

(1) the person with a disability has the ability to perform the duties of the position sought;

(2) the person with a disability is physically qualified to do the work without hazard to that person or to others; and

(3) the person with a disability is socially competent in a work environment and, either independently or with continuing help as has been provided, in

after-working-hours living;

B. there are suitable periods of probation or trial employment for persons with a disability before the employment becomes permanent under the provisions of the Personnel Act; and

C. the processes set forth in this section for establishing the eligibility of persons with a disability are construed to meet the requirements of competitive entrance examinations under the provisions of the Personnel Act."

## **Chapter 46 Section 36 Laws 2007**

Section 36. Section 30-16-12 NMSA 1978 (being Laws 1963, Chapter 303, Section 16-12) is amended to read:

"30-16-12. FALSELY REPRESENTING ONESELF AS INCAPACITATED.-- Falsely representing oneself as disabled consists of a person falsely representing the person's own self to be blind, visually impaired, deaf or having a physical disability for the purpose of obtaining money or other thing of value.

Whoever commits falsely representing oneself as disabled is guilty of a petty misdemeanor."

## **Chapter 46 Section 37 Laws 2007**

Section 37. Section 31-18B-2 NMSA 1978 (being Laws 2003, Chapter 384, Section 2) is amended to read:

"31-18B-2. DEFINITIONS.--As used in the Hate Crimes Act:

A. "age" means sixty years of age or older;

B. "gender identity" means a person's self-perception, or perception of that person by another, of the person's identity as a male or female based upon the person's appearance, behavior or physical characteristics that are in accord or opposed to the person's physical anatomy, chromosomal sex or sex at birth;

C. "disability" means that the person has a physical or mental disability that substantially limits one or more of that person's functions, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working;

D. "motivated by hate" means the commission of a crime with the intent to commit the crime because of the actual or perceived race, religion, color, national origin, ancestry, age, handicapped status, gender, sexual orientation or gender identity of the victim, whether or not the offender's belief or perception was correct; and

E. "sexual orientation" means heterosexuality, homosexuality or bisexuality, whether actual or perceived."

## **Chapter 46 Section 38 Laws 2007**

Section 38. Section 31-18B-3 NMSA 1978 (being Laws 2003, Chapter 384, Section 3) is amended to read:

"31-18B-3. HATE CRIMES--NONCAPITAL FELONIES, MISDEMEANORS OR PETTY MISDEMEANORS COMMITTED BECAUSE OF THE VICTIM'S ACTUAL OR PERCEIVED RACE, RELIGION, COLOR, NATIONAL ORIGIN, ANCESTRY, AGE, DISABILITY, GENDER, SEXUAL ORIENTATION OR GENDER IDENTITY-- ALTERATION OF BASIC SENTENCE.--

A. When a separate finding of fact by the court or jury shows beyond a reasonable doubt that an offender committed a noncapital felony motivated by hate, the basic sentence of imprisonment prescribed for the offense in Section 31-18-15 NMSA 1978 may be increased by one year. An increase in the basic sentence of imprisonment pursuant to the provisions of this subsection shall be in addition to an increase in a basic sentence prescribed for the offense in Section 31-18-17 NMSA 1978. A sentence imposed pursuant to the provisions of this subsection may include an alternative sentence that requires community service, treatment, education or any combination thereof. The court may suspend or defer any or all of the sentence or grant a conditional discharge, unless otherwise provided by law.

B. If a finding was entered in a previous case that the offender was convicted for committing a crime that was motivated by hate, and if a separate finding of fact by the

court or jury shows beyond a reasonable doubt that in the instant case the offender committed a noncapital felony that was motivated by hate, the basic sentence of imprisonment prescribed for the offense in Section 31-18-15 NMSA 1978 may be increased by two years. An increase in the basic sentence of imprisonment pursuant to the provisions of this subsection shall be in addition to an increase in a basic sentence prescribed for the offense in Section 31-18-17 NMSA 1978. A sentence imposed pursuant to the provisions of this subsection may include an alternative sentence that requires community service, treatment, education or any combination thereof. The court may suspend or defer any or all of the sentence, or grant a conditional discharge unless otherwise provided by law.

C. If the case is tried before a jury and if a prima facie case has been established showing that in the commission of the offense the offender was motivated by hate, the court shall submit the issue to the jury by special interrogatory. If the case is tried by the court and if a prima facie case has been established showing that in the commission of the offense the offender was motivated by hate, the court shall decide the issue and shall make a separate finding of fact regarding the issue. If the court or jury determines that the offender is guilty of the crime and finds beyond a reasonable doubt that the offender was motivated by hate, the court shall include that determination in the judgment and sentence.

D. When a petty misdemeanor or a misdemeanor is motivated by hate, the basic sentence of imprisonment prescribed for the offense in Section 31-19-1 NMSA 1978 may include an alternative sentence that requires community service, treatment, education or any combination thereof. The court may suspend or defer any or all of the sentence or grant a conditional discharge, unless otherwise provided by law."

## **Chapter 46 Section 39 Laws 2007**

Section 39. Section 32A-5-44 NMSA 1978 (being Laws 1993, Chapter 77, Section 171) is amended to read:

"32A-5-44. ELIGIBILITY FOR SUBSIDIZED ADOPTIONS.--

A. The social services division of the human services department may make payments to adoptive parents or to medical vendors on behalf of a child placed for adoption by the division or by an agency when the division determines that:

(1) the child is difficult to place; and

(2) the adoptive family is capable of providing the permanent family relationship needed by the child in all respects, except that the needs of the child are beyond the economic resources and ability of the family.

B. As used in Sections 32A-5-43 through 32A-5-45 NMSA 1978, a "difficult to place child" means a child who has a mental, physical or emotional disability or who is in special circumstances by virtue of age, sibling relationship or racial background."

## **Chapter 46 Section 40 Laws 2007**

Section 40. Section 32A-6-2 NMSA 1978 (being Laws 1995, Chapter 207, Section 2, as amended) is amended to read:

"32A-6-2. DEFINITIONS.--As used in the Children's Mental Health and Developmental Disabilities Act:

A. "aversive stimuli" means anything that, because it is believed to be unreasonably unpleasant, uncomfortable or distasteful to the child, is administered or done to the child 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. "clinician" means a physician, licensed psychologist, licensed independent social worker or licensed professional clinical counselor;

C. "consistent with the least drastic means principle" means that the habilitation or treatment and the conditions of habilitation or treatment for the child, separately and in combination:

(1) are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives for the child;

(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 child or others from physical injury; and

(3) are conducted at the suitable available facility closest to the child's place of residence;

D. "convulsive treatment" means any form of mental health treatment that depends upon creation of a convulsion by any means, including electroconvulsive treatment and insulin coma treatment;

E. "developmental disability" means a severe chronic disability that:

(1) is attributable to a mental or physical impairment or a combination of mental or physical impairments;

(2) is manifested before a person reaches twenty-two years of age;

(3) is expected to continue indefinitely;

(4) results in substantial functional limitations in three or more of the following areas of major life activities:

- (a) self-care;
- (b) receptive and expressive language;
- (c) learning;
- (d) mobility;
- (e) self-direction;
- (f) capacity for independent living; or
- (g) economic self-sufficiency; and

(5) reflects a person's need for a combination and sequence of special, interdisciplinary or generic treatments or other supports and services that are of lifelong or extended duration and that are individually planned or coordinated;

F. "evaluation facility" means a community mental health or developmental disability program, a medical facility having psychiatric or developmental disability services available or, if none of the foregoing is reasonably available or appropriate, the office of a licensed physician or a licensed psychologist, any of which shall be capable of performing a mental status examination adequate to determine the need for involuntary treatment;

G. "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 the competent practice of medicine and psychology and supported by scientifically acceptable studies;

H. "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;

I. "habilitation" means the process by which professional persons and their staff assist a child with a developmental disability in acquiring and maintaining those skills and behaviors that enable the child to cope more effectively with the demands of the child's own person and of the child's environment and to raise the level of the child's physical, mental and social efficiency. "Habilitation" includes programs of formal, structured education and treatment;

J. "likelihood of serious harm to oneself" means that it is more likely than not that in the near future the child will attempt to commit suicide or will cause serious bodily harm to the child's self by violent or other self-destructive means, including grave passive neglect;

K. "likelihood of serious harm to others" means that it is more likely than not that in the near future the child 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 child;

K. "mental disorder" means a substantial disorder of the child's emotional processes, thought or cognition that grossly impairs judgment, behavior or capacity to recognize reality, but does not mean developmental disability;

M. "mental health or developmental disabilities professional" means a physician or other professional who, by training or experience, is qualified to work with persons who have a mental disorder or a developmental disability;

N. "physician" or "licensed psychologist", when used for the purpose of hospital admittance or discharge, means a physician or licensed psychologist who has been granted admitting privileges at a hospital licensed by the department of health, if such privileges are required;

O. "psychosurgery" 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 following purposes:

(1) modification or control of thoughts, feelings, actions or behavior rather than the treatment of a known and diagnosed physical disease of the brain;

(2) treatment of abnormal brain function or normal brain tissue in order to control thoughts, feelings, actions or behavior; or

(3) 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.

"Psychosurgery" does not include prefrontal sonic treatment in which there is no destruction of brain tissue;

P. "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, supervisory residence or nursing home when the individual resides on the premises and where one or more of the following measures is available for use:

- (1) a mechanical device to restrain or restrict the child's movement;
  - (2) a secure seclusion area from which the child is unable to exit voluntarily;
  - (3) a facility or program designed for the purpose of restricting the child's ability to exit voluntarily; or
  - (4) the involuntary emergency administration of psychotropic medication;
- and

Q. "treatment" means any effort to accomplish a significant change in the mental or emotional condition or behavior of the child."

## **Chapter 46 Section 41 Laws 2007**

Section 41. Section 32A-16-4 NMSA 1978 (being Laws 1989, Chapter 290, Section 4, as amended) is amended to read:

"32A-16-4. POWERS AND DUTIES OF THE BOARD.--The child development board shall:

- A. recommend to the secretary of children, youth and families the hiring of a director of child development;
- B. consider and adopt licensure requirements, policies and procedures for individuals working in licensed or registered health facilities with children from birth to age five; provided that such licensure requirements shall not apply to individuals working in group homes pursuant to Section 9-8-13 NMSA 1978;
- C. consider and make recommendations to the public education department regarding additional licensure requirements for public school personnel working with public school children up to age eight;
- D. work with other state agencies to promote a uniform and comprehensive method of licensing child care personnel;
- E. develop and adopt policies and procedures for the office of child development;
- F. develop levels of licensure for nonpublic school personnel depending upon the age of children served, the training facility used and the program in which the individual is employed;
- G. work with the department of health to develop levels of licensure for nonpublic school personnel serving children who are developmentally delayed or at risk for developmental delay, birth through two years;

H. develop and adopt program criteria for state-funded preschool programs serving children from birth to age five; provided that criteria shall not apply to programs serving children who have a developmental delay or are at risk for developing a delay, birth through two years, and programs serving children who have a developmental delay, three through five years; and

I. work with other state agencies to monitor the implementation of state-funded preschool program criteria."

## **Chapter 46 Section 42 Laws 2007**

Section 42. 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 department of health;

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, a medical facility having 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 licensed physician or a certified psychologist, any of which shall be 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 a person will attempt to commit suicide or will cause serious bodily harm to the person's self by violent or other self-destructive means, including but not limited to grave passive neglect;

"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 disability" 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 disability or a developmental disability;

Q. "physician" or "certified psychologist", when used for the purpose of hospital admittance or discharge, means a physician or certified psychologist who has been granted admitting privileges at a hospital licensed by the department of health, if such privileges are required;

R. "psychosurgery":

(1) means those operations currently referred to as lobotomy, psychiatric surgery and behavioral surgery and all other forms of brain surgery if the surgery is performed for the purpose of the following:

(a) modification or control of thoughts, feelings, actions or behavior rather than the treatment of a known and diagnosed physical disease of the brain;

(b) treatment of abnormal brain function or normal brain tissue in order to control thoughts, feelings, actions or behavior; or

(c) treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions or behavior when the abnormality is not an established cause for those thoughts, feelings, actions or behavior; and

(2) "psychosurgery" does not include prefrontal sonic treatment in which there is no destruction of brain tissue;

S. "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

T. "treatment" means any effort to accomplish a significant change in the mental or emotional condition or behavior of the client."

## **Chapter 46 Section 43 Laws 2007**

Section 43. Section 43-1-4 NMSA 1978 (being Laws 1977, Chapter 279, Section 3, as amended) is amended to read:

"43-1-4. LEGAL REPRESENTATION OF CLIENTS.--

A. Clients shall be represented by counsel at all proceedings under the code and shall be entitled to obtain advice of counsel at any time regarding their status under the code.

B. The court shall appoint counsel to represent a client who has not retained counsel and is unable to do so. When appointing counsel, the court shall give preference to nonprofit organizations offering representation to persons with a mental illness or a developmental disability. A client shall be liable for the cost of legal representation unless the client is indigent."

## **Chapter 46 Section 44 Laws 2007**

Section 44. 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 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

(4) 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."

## **Chapter 46 Section 45 Laws 2007**

Section 45. Section 50-4-21 NMSA 1978 (being Laws 1955, Chapter 200, Section 2, as amended) is amended to read:

"50-4-21. DEFINITIONS.--As used in the Minimum Wage Act:

A. "employ" includes suffer or permit to work;

B. "employer" includes any individual, partnership, association, corporation, business trust, legal representative or any organized group of persons employing one or more employees at any one time, acting directly or indirectly in the interest of an employer in relation to any employee, but shall not include the United States, the state or any political subdivision thereof; and

C. "employee" includes any individual employed by any employer, but shall not include:

(1) any individual employed in domestic service in or about a private home;

(2) any individual employed in a bona fide executive, administrative or professional capacity and forepersons, superintendents and supervisors;

(3) any individual employed by the United States or by the state or any political subdivision thereof;

(4) any individual engaged in the activities of an educational, charitable, religious or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to such organizations are on a voluntary basis. The employer-employee relationship shall not be deemed to exist with respect to any individual being served for purposes of rehabilitation by a charitable or nonprofit organization, notwithstanding the payment to the individual of a stipend based upon the value of the work performed by the individual;

(5) salespersons or employees compensated upon piecework, flat rate schedules or commission basis;

(6) students regularly enrolled in primary or secondary schools working after school hours or on vacation;

(7) registered apprentices and learners otherwise provided by law;

(8) persons eighteen years of age or under who are not students in a primary, secondary, vocational or training school;

(9) persons eighteen years of age or under who are not graduates of a secondary school;

(10) persons employed by ambulance services;

(11) G.I. bill trainees while under training;

(12) seasonal employees of any employer obtaining and holding a valid certificate issued annually by the director of the labor and industrial division of the labor department. The certificate shall state the job designations and total number of employees to be exempted. In approving or disapproving an application for a certificate of exemption, the director shall consider the following:

(a) whether such employment shall be at an educational, charitable or religious youth camp or retreat;

(b) that such employment will be of a temporary nature;

(c) that the individual will be furnished room and board in connection with such employment, or if the camp or retreat is a day camp or retreat, the individual will be furnished board in connection with such employment;

(d) the purposes for which the camp or retreat is operated;

(e) the job classifications for the positions to be exempted; and

(f) any other factors that the director deems necessary to consider;

(13) any employee employed in agriculture:

(a) if such employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred man-days of agricultural labor;

(b) if such employee is the parent, spouse, child or other member of the employer's immediate family; for the purpose of this subsection, employer shall include the principal stockholder of a family corporation;

(c) if such employee: 1) is employed as a hand-harvest laborer and is paid on a piece-rate basis in an operation that has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment; 2) commutes daily from the employee's permanent residence to the farm on which the employee is so employed; and 3) has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(d) if such employee, other than an employee described in Subparagraph (c) of this paragraph:

1) is sixteen years of age or under and is employed as a hand-harvest laborer, is paid on a piece-rate basis in an operation that has been, and is generally recognized as having been, paid on a piece-rate basis in the region of employment; 2) is employed on the same farm as the employee's parent or person standing in the place of the parent; and

3) is paid at the same piece-rate as employees over age sixteen are paid on the same farm; or

(e) if such employee is principally engaged in the range production of livestock; or

(14) employees of charitable, religious or nonprofit organizations who reside on the premises of group homes operated by such charitable, religious or nonprofit organizations for persons who have a mental, emotional or developmental disability."

## **Chapter 46 Section 46 Laws 2007**

Section 46. Section 50-4-23 NMSA 1978 (being Laws 1967, Chapter 242, Section 1) is amended to read:

"50-4-23. PERSONS WITH A DISABILITY--MINIMUM WAGE-- DIRECTOR POWERS AND DUTIES.--

A. The director of the labor and industrial division of the labor department, to the extent necessary in order to prevent curtailment of opportunities for employment, shall, by regulation, provide for the employment under special certificates of individuals, including individuals employed in agriculture, whose earning or productive capacity is impaired by physical or mental disability or injury or any other disability, at wages that are lower than the minimum wage applicable under Section 50-4-22 NMSA 1978, but not less than fifty percent of such wage.

B. The director, pursuant to regulations and upon certification of any state agency administering or supervising the administration of vocational rehabilitation services, may issue special certificates that allow the holder thereof to work at wages that are less than those required by Subsection A of this section and that are related to the workers' productivity, for the employment of:

(1) workers with a disability who are engaged in work that is incidental to training or evaluation programs; and

(2) persons with multiple disabilities and other persons whose earning capacity is so severely impaired that they are unable to engage in competitive employment.

C. The director may, by regulation or order, provide for the employment of persons with a disability in work activities centers under special certificates at wages that are less than the minimums applicable under Section 50-4-22 NMSA 1978, or less than that prescribed in Subsection A of this section, and that constitute equitable compensation for such persons. As used in this subsection, "work activities centers" means centers planned and designed exclusively to provide therapeutic activities for persons with a disability whose physical or mental disability is so severe as to make their productive capacity inconsequential.

D. The state agency administering or supervising the administration of vocational rehabilitation may issue a temporary certificate for a period not to exceed ninety days pursuant to Subsections A, B and C of this section and may request an extension of the certification by the director when it is determined that the severity of disability of an individual or circumstances warrants an extension of the certification."

## **Chapter 46 Section 47 Laws 2007**

Section 47. Section 58-18-3.1 NMSA 1978 (being Laws 1982, Chapter 86, Section 3, as amended) is amended to read:

"58-18-3.1. ADDITIONAL DEFINITIONS-- MULTIPLE-FAMILY DWELLINGS, TRANSITIONAL AND CONGREGATE HOUSING FACILITIES.--As used in the Mortgage Finance Authority Act:

A. "multiple-family dwelling project" means residential housing that is designed for occupancy by more than four persons or families living independently of each other or living in a congregate housing facility, at least sixty percent of whom are persons and families of low or moderate income, including without limitation persons of low or moderate income who are elderly and who have a disability as determined by the authority, provided that the percentage of low-income persons and families shall be at least the minimum required by federal tax law;

B. "transitional housing facility" means residential housing that is designed for temporary or transitional occupancy by persons or families of low or moderate income or special needs;

C. "congregate housing facility" means residential housing designed for occupancy by more than four persons or families of low or moderate income living independently of each other. The facility may contain group dining, recreational, health care or other communal facilities and each unit in a congregate housing facility shall contain at least its own living, sleeping and bathing facilities;

D. "project mortgage loan" means a mortgage loan made to a sponsor to finance project costs of a multiple-family dwelling or transitional or congregate housing facility; and

E. "sponsor" means an individual, association, corporation, joint venture, partnership, limited partnership, trust or any combination thereof that has been approved by the authority as qualified to own and maintain a multiple-family dwelling or transitional or congregate housing facility in New Mexico, maintains its principal office or a branch office in New Mexico and has agreed to subject itself to the regulatory powers of the authority and the jurisdiction of the courts of the state."

## **Chapter 46 Section 48 Laws 2007**

Section 48. Section 60-13-44 NMSA 1978 (being Laws 1967, Chapter 199, Section 52, as amended) is amended to read:

### **"60-13-44. TRADE BUREAUS--STANDARDS--CONFLICTS.--**

A. The electrical bureau shall recommend to the commission minimum standards for the installation or use of electrical wiring. The recommendations shall substantially embody the applicable provisions of an electrical code for safety to life and property promulgated by a nationally recognized association and developed through an open, balanced consensus process.

B. The mechanical bureau shall recommend to the commission minimum standards for the installation of all fixtures, consumers' gas pipe, appliances and materials installed in the course of a mechanical installation. The recommendations shall be in substantial conformity with codes and standards that are developed through an open, balanced consensus process. Manufacturers may choose the independent certification organization they wish to certify their products if the certification organization is accredited by the American national standards institute or other accreditation organization selected by the commission.

C. The general construction bureau shall recommend to the commission minimum standards for the construction, alteration or repair of buildings, except for those activities within the jurisdiction of the electrical bureau or the mechanical bureau. The recommendations shall substantially embody the applicable provisions of a nationally recognized building code that is developed through an open, balanced consensus process and shall give due regard to physical, climatic and other conditions peculiar to New Mexico. The standards shall include the authority to permit or deny occupancy of existing and new buildings or structures and authority to accept or deny the use of materials manufactured within or without the state. The general construction bureau may set minimum fees or charges for conducting tests to verify claims or specifications of manufacturers.

D. The general construction bureau shall recommend to the commission additional specifications for any public building constructed in the state through expenditure of state, county or municipal funds, bonds and other revenues, which specifications shall embody standards making the building accessible to persons who have a physical disability, and the specifications shall conform substantially with those

contained in a nationally recognized standard for making public facilities accessible to persons with a physical disability that is developed through an open, balanced consensus process. All orders and rules recommended by the general construction bureau and adopted by the commission under the provisions of this section shall be printed and distributed to all licensed contractors, architects and engineers and to the governor's commission on disability. The orders and rules shall take effect on a date fixed by the commission, which shall not be less than thirty days after their adoption by the commission, and shall have the force of law.

E. The general construction bureau shall have the right of review of all specifications of public buildings and the responsibility to ensure compliance with the adopted standards.

F. All political subdivisions of the state are subject to the provisions of codes adopted and approved under the Construction Industries Licensing Act. Such codes constitute a minimum requirement for the codes of political subdivisions.

G. The trade bureaus within their respective jurisdictions shall recommend to the commission standards that are developed through an open, balanced consensus process for the installation or use of electrical wiring, the installation of all fixtures, consumers' gas pipe, appliances and materials installed in the course of mechanical installation and the construction, alteration or repair of all buildings intended for use by persons with a physical disability or persons requiring special facilities to accommodate the aged. The recommendations shall give due regard to physical, climatic and other conditions peculiar to New Mexico.

H. The trade bureaus within their respective jurisdictions shall recommend to the commission standards for the construction, alteration, repair, use or occupancy of manufactured commercial units, modular homes and premanufactured homes. The recommendations shall substantially embody the applicable provisions or standards for the safety to life, health, welfare and property approved by the nationally recognized standards association and developed through an open, balanced consensus process and shall give due regard to physical, climatic and other conditions peculiar to New Mexico. Wherever existing state codes or standards conflict with the codes and standards adopted by the commission under the provisions of this subsection, the provisions of the applicable New Mexico building codes adopted pursuant to the Construction Industries Licensing Act and the LPG and CNG Act in effect at the applicable time shall exclusively apply and control, except for codes and standards for mobile housing units.

I. Modular homes and premanufactured homes in existence at the time of the effective date of the Construction Industries Licensing Act shall have their use or occupancy continued if such use or occupancy was legal on the effective date of that act, provided such continued use or occupancy is not dangerous to life. Any change in the use or occupancy or any major alteration or repair of a modular home or

premanufactured home shall comply with all codes and standards adopted under the Construction Industries Licensing Act.

J. The commission shall review all recommendations made under the provisions of this section and shall by rule adopt standards and codes that substantially comply with the requirements of this section that apply to the recommendations of the trade bureaus."

## **Chapter 46 Section 49 Laws 2007**

Section 49. Section 66-7-352.2 NMSA 1978 (being Laws 1983, Chapter 45, Section 2) is amended to read:

"66-7-352.2. LEGISLATIVE INTENT.--The policy and intent of the legislature is declared to be as follows:

A. that the legislature finds there is a significant safety hazard for persons with a physical disability crossing through parking lots and that this hazard is greatly reduced when parking is provided adjacent to a building entrance;

B. that many commercial and governmental establishments now provide reserved parking for persons with a disability, ensuring full and equal opportunity for persons with a disability to maintain independence and self-respect; and

C. that ultimately society will benefit from the increased interaction of persons with a disability with the mainstream that these parking spaces will provide."

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Senate Bill 289

with certificate of correction

Approved March 23, 2007

## **LAWS 2007, CHAPTER 47**

AN ACT

RELATING TO PAYMENT OF WAGES; INCREASING THE STATE MINIMUM WAGE IN TWO PHASES; MODIFYING EXEMPTIONS; PREEMPTING LOCAL INCREASES FOR TWO YEARS; PRESERVING LOCAL INCREASE ORDINANCES IN EFFECT ON JANUARY 1, 2007.

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

## Chapter 47 Section 1 Laws 2007

Section 1. Section 50-4-21 NMSA 1978 (being Laws 1955, Chapter 200, Section 2, as amended) is amended to read:

"50-4-21. DEFINITIONS.--As used in the Minimum Wage Act:

A. "employ" includes suffer or permit to work;

B. "employer" includes any individual, partnership, association, corporation, business trust, legal representative or any organized group of persons employing one or more employees at any one time, acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the United States; and

C. "employee" includes an individual employed by an employer, but shall not include:

(1) an individual employed in domestic service in or about a private home;

(2) an individual employed in a bona fide executive, administrative or professional capacity and forepersons, superintendents and supervisors;

(3) an individual employed by the United States;

(4) an individual engaged in the activities of an educational, charitable, religious or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to such organizations are on a voluntary basis. The employer-employee relationship shall not be deemed to exist with respect to an individual being served for purposes of rehabilitation by a charitable or nonprofit organization, notwithstanding the payment to the individual of a stipend based upon the value of the work performed by the individual;

(5) salespersons or employees compensated upon piecework, flat rate schedules or commission basis;

(6) students regularly enrolled in primary or secondary schools working after school hours or on vacation;

(7) registered apprentices and learners otherwise provided by law;

(8) persons eighteen years of age or under who are not students in a primary, secondary, vocational or training school;

(9) persons eighteen years of age or under who are not graduates of a secondary school;

(10) G.I. bill trainees while under training;

(11) seasonal employees of an employer obtaining and holding a valid certificate issued annually by the director of the labor and industrial division of the labor department. The certificate shall state the job designations and total number of employees to be exempted. In approving or disapproving an application for a certificate of exemption, the director shall consider the following:

(a) whether such employment shall be at an educational, charitable or religious youth camp or retreat;

(b) that such employment will be of a temporary nature;

(c) that the individual will be furnished room and board in connection with such employment, or if the camp or retreat is a day camp or retreat, the individual will be furnished board in connection with such employment;

(d) the purposes for which the camp or retreat is operated;

(e) the job classifications for the positions to be exempted; and

(f) any other factors that the director deems necessary to consider;

(12) any employee employed in agriculture:

(a) if the employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred man-days of agricultural labor;

(b) if the employee is the parent, spouse, child or other member of the employer's immediate family; for the purpose of this subsection, the employer shall include the principal stockholder of a family corporation;

(c) if the employee: 1) is employed as a hand-harvest laborer and is paid on a piece-rate basis in an operation that has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment; 2) commutes daily from the employee's permanent residence to the farm on which the employee is so employed; and 3) has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(d) if the employee, other than an employee described in Subparagraph (c) of this paragraph: 1) is sixteen years of age or under and is employed as a hand-harvest laborer, is paid on a piece-rate basis in an operation that has been, and is generally recognized as having been, paid on a piece-rate basis in the region of employment; 2) is employed on the same farm as the employee's parent or person

standing in the place of the parent; and 3) is paid at the same piece-rate as employees over age sixteen are paid on the same farm; or

(e) if the employee is principally engaged in the range production of livestock or in milk production;

(13) an employee engaged in the handling, drying, packing, packaging, processing, freezing or canning of any agricultural or horticultural commodity in its unmanufactured state; or

(14) employees of charitable, religious or nonprofit organizations who reside on the premises of group homes operated by such charitable, religious or nonprofit organizations for mentally retarded or emotionally or developmentally disabled persons."

## **Chapter 47 Section 2 Laws 2007**

Section 2. Section 50-4-22 NMSA 1978 (being Laws 1955, Chapter 200, Section 3, as amended by Laws 2005, Chapter 302, Section 1 and by Laws 2005, Chapter 306, Section 1) is amended to read:

"50-4-22. MINIMUM WAGES.--

A. An employer shall pay an employee the minimum wage rate of six dollars fifty cents (\$6.50) an hour. As of January 1, 2009, an employer shall pay the minimum wage rate of seven dollars fifty cents (\$7.50) an hour.

B. An employer furnishing food, utilities, supplies or housing to an employee who is engaged in agriculture may deduct the reasonable value of such furnished items from any wages due to the employee.

C. An employee who customarily and regularly receives more than thirty dollars (\$30.00) a month in tips shall be paid a minimum hourly wage of two dollars thirteen cents (\$2.13). The employer may consider tips as part of wages, but the tips combined with the employer's cash wage shall not equal less than the minimum wage rate as provided in Subsection A of this section. All tips received by such employees shall be retained by the employee, except that nothing in this section shall prohibit the pooling of tips among employees.

D. An employee shall not be required to work more than forty hours in any week of seven days, unless the employee is paid one and one-half times the employee's regular hourly rate of pay for all hours worked in excess of forty hours. For an employee who is paid a fixed salary for fluctuating hours and who is employed by an employer a majority of whose business in New Mexico consists of providing investigative services to the federal government, the hourly rate may be calculated in accordance with the provisions of the federal Fair Labor Standards Act of 1938 and the regulations pursuant

to that act; provided that in no case shall the hourly rate be less than the federal minimum wage."

### **Chapter 47 Section 3 Laws 2007**

Section 3. A new section of the Minimum Wage Act is enacted to read:

"TEMPORARY STATE PREEMPTION--SAVING CLAUSE.--

A. Except as provided in Subsection B of this section, cities, counties, home rule municipalities and other political subdivisions of the state shall not adopt or continue in effect any law or ordinance that would mandate a minimum wage rate higher than that set forth in the Minimum Wage Act. The provisions of this subsection expire on January 1, 2010.

B. A local law or ordinance, whether advisory or self-executing, in effect on January 1, 2007 that provides for a higher minimum wage rate than that set forth in the Minimum Wage Act shall continue in full force and effect until repealed."

### **Chapter 47 Section 4 Laws 2007**

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2008.

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Senate Bill 324, as amended

Approved March 23, 2007

## **LAWS 2007, CHAPTER 48**

AN ACT

RELATING TO MOTOR VEHICLES; ENACTING NEW SECTIONS OF CHAPTER 66, ARTICLE 3 NMSA 1978 TO PROVIDE FOR SPECIAL MOTOR VEHICLE AND MOTORCYCLE REGISTRATION PLATES FOR WOMEN ARMED FORCES VETERANS.

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

### **Chapter 48 Section 1 Laws 2007**

Section 1. A new section of Chapter 66, Article 3 NMSA 1978 is enacted to read:

**"SPECIAL REGISTRATION PLATES FOR WOMEN ARMED FORCES VETERANS.--**

A. The department shall issue the distinctive registration plate, "Women Veterans Serve Proudly", indicating that the recipient is a woman veteran of the armed forces of the United States, as defined in Section 9-22-3 NMSA 1978, or is retired from the national guard or military reserves, if that person submits proof satisfactory to the department of honorable discharge from the armed forces or of retirement from the national guard or military reserves.

B. For a fee of fifteen dollars (\$15.00), which shall be in addition to the regular motor vehicle registration fees, any motor vehicle owner who is a woman veteran of the armed forces of the United States or is retired from the national guard or military reserves may apply for the issuance of a special registration plate as defined in Subsection A of this section. No two owners shall be issued identically lettered or numbered plates.

C. The fifteen-dollar (\$15.00) fee provided in Subsection B of this section shall be waived for each registration period in which a validating sticker is issued under the provisions of Section 66-3-17 NMSA 1978, in lieu of the issuance of a special woman armed forces veteran plate.

D. The revenue from the special registration plates for the women armed forces veteran fee imposed by Subsection B of this section shall be distributed as follows:

(1) seven dollars (\$7.00) of the fee collected for each registration plate shall be retained by the department and is appropriated to the department for the manufacture and issuance of the registration plates; and

(2) eight dollars (\$8.00) of the fee collected for each registration plate shall be transferred to the state treasurer for credit to the armed forces veterans license fund."

**Chapter 48 Section 2 Laws 2007**

Section 2. A new section of Chapter 66, Article 3 NMSA 1978 is enacted to read:

**"SPECIAL MOTORCYCLE REGISTRATION PLATES FOR WOMEN ARMED FORCES VETERANS.--**

A. The department shall issue distinctive motorcycle registration plates indicating that the recipient is a woman veteran of the armed forces of the United States, as defined in Section 9-22-3 NMSA 1978, or is retired from the national guard or military reserves, if that person submits proof satisfactory to the department of honorable discharge from the armed forces or of retirement from the national guard or military reserves.

B. For a fee of seven dollars (\$7.00), which shall be in addition to the regular motorcycle registration fees, any motorcycle owner who is a woman veteran of the armed forces of the United States or is retired from the national guard or military reserves may apply for the issuance of a special motorcycle registration plate as defined in Subsection A of this section. No two owners shall be issued identically lettered or numbered plates.

C. An owner shall make a new application and pay a new fee for each year the owner desires to obtain a special motorcycle registration plate. The owner will have first priority on that plate for each subsequent year that the owner makes a timely and appropriate application."

### **Chapter 48 Section 3 Laws 2007**

Section 3. EFFECTIVE DATE.--The effective date of the provision of this act is July 1, 2008.

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House Transportation and Public Works

Committee substitute for House Bill 365

Approved March 23, 2007

## **LAWS 2007, CHAPTER 49**

AN ACT

RELATING TO PUBLIC FINANCE; PERMITTING STATE AND LOCAL GOVERNMENTS TO PROVIDE OR PAY THE COST OF LAND, BUILDINGS OR NECESSARY FINANCING FOR AFFORDABLE HOUSING PROJECTS; AMENDING THE AFFORDABLE HOUSING ACT.

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

### **Chapter 49 Section 1 Laws 2007**

Section 1. Section 6-27-3 NMSA 1978 (being Laws 2004, Chapter 104, Section 3) is amended to read:

"6-27-3. DEFINITIONS.--As used in the Affordable Housing Act:

A. "affordable housing" means residential housing primarily for persons or households of low or moderate income;

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

C. "building" means a structure capable of being renovated or converted into affordable housing or a structure that is to be demolished and is located on land that is donated and upon which affordable housing will be constructed;

D. "governmental entity" means a state, a county, a municipality or the authority;

E. "household" means one or more persons occupying a housing unit;

F. "housing assistance grant" means the donation, provision or payment by a governmental entity of:

(1) land upon which affordable housing will be constructed;

(2) an existing building that will be renovated, converted or demolished and reconstructed as affordable housing;

(3) the costs of acquisition, development, construction, financing and operating or owning affordable housing; or

(4) the costs of financing or infrastructure necessary to support affordable housing;

G. "infrastructure" includes infrastructure improvements and infrastructure purposes;

H. "infrastructure improvement" includes, but is not limited to:

(1) sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;

(2) drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;

(3) water systems for domestic purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;

(4) areas for motor vehicle use for road access, ingress, egress and parking;

(5) trails and areas for pedestrian, equestrian, bicycle or other nonmotor vehicle use for access, ingress, egress and parking;

(6) parks, recreational facilities and open space areas to be used by residents for entertainment, assembly and recreation;

(7) landscaping, including earthworks, structures, plants, trees and related water delivery systems;

(8) electrical transmission and distribution facilities;

(9) natural gas distribution facilities;

(10) lighting systems;

(11) cable or other telecommunications lines and related equipment;

(12) traffic control systems and devices, including signals, controls, markings and signs;

(13) inspection, construction management and related costs in connection with the furnishing of the items listed in this subsection; and

(14) heating, air conditioning and weatherization facilities, systems or services, and energy efficiency improvements that are affixed to real property;

I. "infrastructure purpose" means:

(1) planning, design, engineering, construction, acquisition or installation of infrastructure, including the costs of applications, impact fees and other fees, permits and approvals related to the construction, acquisition or installation of the infrastructure;

(2) acquiring, converting, renovating or improving existing facilities for infrastructure, including facilities owned, leased or installed by the owner;

(3) acquiring interests in real property or water rights for infrastructure, including interests of the owner; and

(4) incurring expenses incident to and reasonably necessary to carry out the purposes specified in this subsection;

J. "municipality" means an incorporated city, town or village, whether incorporated under general act, special act or special charter, incorporated counties and H class counties;

K. "qualifying grantee" means:

(1) an individual who is qualified to receive assistance pursuant to the Affordable Housing Act and is approved by the governmental entity; and

(2) a governmental housing agency, regional housing authority, tribal housing agency, corporation, limited liability company, partnership, joint venture, syndicate, association or nonprofit organization that:

(a) is organized under state, local or tribal laws and can provide proof of such organization;

(b) if a nonprofit organization, has no part of its net earnings inuring to the benefit of any member, founder, contributor or individual; and

(c) is approved by the governmental entity; and

L. "residential housing" means any building, structure or portion thereof that is primarily occupied, or designed or intended primarily for occupancy, as a residence by one or more households and any real property that is offered for sale or lease for the construction or location thereon of such a building, structure or portion thereof. "Residential housing" includes congregate housing, manufactured homes, housing intended to provide or providing transitional or temporary housing for homeless persons and common health care, kitchen, dining, recreational and other facilities primarily for use by residents of a residential housing project."

## **Chapter 49 Section 2 Laws 2007**

Section 2. Section 6-27-5 NMSA 1978 (being Laws 2004, Chapter 104, Section 5) is amended to read:

"6-27-5. STATE, COUNTY, MUNICIPALITIES AND THE AUTHORITY--

AUTHORIZATION FOR AFFORDABLE HOUSING.--The state, a county, a municipality or the authority may:

A. donate, provide or pay all, or a portion, of the costs of land for the construction on the land of affordable housing;

B. donate, provide or pay all or a portion of the costs of conversion or renovation of existing buildings into affordable housing;

C. provide or pay the costs of financing or infrastructure necessary to support affordable housing projects; or

D. provide or pay all or a portion of the costs of acquisition, development, construction, financing, operating or owning affordable housing."

## **Chapter 49 Section 3 Laws 2007**

Section 3. Section 6-27-7 NMSA 1978 (being Laws 2004, Chapter 104, Section 7) is amended to read:

"6-27-7. REQUIREMENT FOR ENACTMENT OF AN ORDINANCE BY A COUNTY OR A MUNICIPALITY AND REVIEW BY THE AUTHORITY AUTHORIZING HOUSING ASSISTANCE GRANTS--REQUIREMENT FOR ADOPTION OF A RESOLUTION BY THE GOVERNING BODY OF THE AUTHORITY AUTHORIZING HOUSING ASSISTANCE GRANTS.--

A. A county or municipality may provide housing assistance grants pursuant to Article 9, Section 14 of the constitution of New Mexico after enactment by its governing body of an ordinance authorizing grants, stating the requirements of and purposes of the grants and authorizing transfer or disbursement to a qualifying grantee only after a budget is submitted to and approved by the governing body. The ordinance may provide for matching or using local, private or federal funds either through direct participation with a federal agency pursuant to federal law or through indirect participation through programs of the authority. No less than forty-five days prior to enactment, the county or municipality shall submit a proposed ordinance to the authority, which shall review the proposed ordinance to ensure compliance with rules promulgated by the authority pursuant to Section 6-27-8 NMSA 1978. Within fifteen days after enactment of the ordinance, the county or municipality shall submit a certified true copy of the ordinance to the authority.

B. A school district may transfer land or buildings owned by the school district to a county or municipality to be further granted as part or all of an affordable housing grant if the school district and the governing body of the county or municipality enter into a contract that provides the school district with a negotiated number of affordable housing units that will be reserved for employees of the school district.

C. The governing board of a public post-secondary educational institution may transfer land or buildings owned by that institution to a county or municipality; provided that:

(1) the property transferred shall be granted by the county or municipality as part or all of an affordable housing grant; and

(2) the governing board of the public post-secondary educational institution and the governing body of the county or municipality enter into a contract that provides the public post-secondary educational institution with affordable housing units.

D. The authority may provide housing assistance grants pursuant to Article 9, Section 14 of the constitution of New Mexico after enactment by its governing body of a resolution authorizing grants, stating the requirements and purposes of the grants and authorizing disbursement to a qualifying grantee after a budget is submitted to and approved by the governing body. The resolution may provide for matching or for using local, private or federal funds either through direct participation with a federal agency

pursuant to federal law or through indirect participation through programs of the authority. The resolution shall comply with rules promulgated by the authority pursuant to Section 6-27-8 NMSA 1978.

E. As used in this section, "public post-secondary educational institution" means a state university or a public community college."

## **Chapter 49 Section 4 Laws 2007**

Section 4. Section 6-27-8 NMSA 1978 (being Laws 2004, Chapter 104, Section 8) is amended to read:

"6-27-8. PROVISIONS TO ENSURE SUCCESSFUL COMPLETION OF AFFORDABLE HOUSING PROJECTS--INVESTIGATION.--

A. State, county and municipal housing assistance grants pursuant to the Affordable Housing Act shall be applied for and awarded to qualifying grantees pursuant to the rules promulgated by the authority subject to the requirements of that act.

B. The authority shall adopt rules covering:

(1) procedures to ensure that qualifying grantees meet the requirements of the Affordable Housing Act and rules promulgated pursuant to that act both at the time of the award and through the term of the grant;

(2) establishment of an application and award timetable for housing assistance grants to permit the selection of the potential qualifying grantees prior to January of the year in which the grants would be made;

(3) contents of the application, including an independent evaluation of the:

(a) financial and management stability of the applicant;

(b) demonstrated commitment of the applicant to the community;

(c) cost-benefit analysis of the project proposed by the applicant;

(d) benefits to the community of a proposed project;

(e) type or amount of assistance to be provided;

(f) scope of the affordable housing project;

(g) substantive or matching contribution by the applicant to the proposed project; and

(h) performance schedule for the qualifying grantee with performance criteria;

(4) a requirement for long-term affordability of a state, county or municipal project so that a project cannot be sold shortly after completion and taken out of the affordable housing market to ensure a quick profit for the qualifying grantee;

(5) a requirement that a grant for a state or local project must impose a contractual obligation on the qualifying grantee that the housing units in a state or local project pursuant to the Affordable Housing Act be occupied by low- or moderate-income households;

(6) provisions for adequate security against the loss of public funds or property in the event that a qualifying grantee abandons or otherwise fails to complete a project;

(7) a requirement for review and approval of a housing grant project budget by the grantor before any expenditure of grant funds or transfer of granted property;

(8) a requirement that, unless the period is extended for good cause shown, the authority shall act on an application within forty-five days of the date of receipt of an application that the authority deems to be complete and, if not acted upon, the application shall be deemed approved;

(9) a requirement that a condition of grant approval be proof of compliance with all applicable state and local laws, rules and ordinances;

(10) provisions defining "low- and moderate-income" and setting out requirements for verification of income levels;

(11) a requirement that a county or municipality that makes a housing assistance grant shall have an existing valid affordable housing plan or housing elements contained in its general plan; and

(12) a requirement that the governmental entity enter into a contract with a qualifying grantee consistent with the Affordable Housing Act, which contract shall include remedies and default provisions in the event of the unsatisfactory performance by the qualifying grantee.

C. In addition to the rulemaking mandated in Subsection B of this section, the authority may adopt additional rules to carry out the purposes of the Affordable Housing Act. Rulemaking procedures pursuant to the Affordable Housing Act shall:

(1) provide a public hearing in accordance with the state Administrative Procedures Act; and

(2) require concurrence in a rule having application to local government by both the New Mexico municipal league and the New Mexico association of counties.

D. The attorney general shall investigate any alleged violation of the Affordable Housing Act as reported by the authority."

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Senate Bill 534

Approved March 28, 2007

## **LAWS 2007, CHAPTER 50**

### **AN ACT**

RELATING TO HOUSING; LIMITING THE POWER OF REGIONAL HOUSING AUTHORITIES; EXPANDING REPORTING REQUIREMENTS; TRANSFERRING BONDING CAPACITIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE REGIONAL HOUSING LAW; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

### **Chapter 50 Section 1 Laws 2007**

Section 1. Section 11-3A-3 NMSA 1978 (being Laws 1994, Chapter 132, Section 3, as amended) is amended to read:

"11-3A-3. DEFINITIONS.--As used in the Regional Housing Law:

A. "authority" means any regional housing authority or a nonprofit corporation created by an authority;

B. "bond" means any bond, note, interim certificate, debenture or other obligation issued by the New Mexico mortgage finance authority pursuant to the Regional Housing Law;

C. "federal government" includes the United States of America, programs of the United States department of housing and urban development, the farmers home administration and rural development administration of the United States department of agriculture or housing programs or any other agency or instrumentality, corporate or otherwise, of the United States of America;

D. "housing project" means an undertaking of an authority to:

(1) demolish, clear or remove buildings from any slum area. The undertaking may embrace the adaptation of the area to public purposes, including parks or other recreational or community purposes; or

(2) provide decent, safe and sanitary dwellings, apartments, single-family dwellings or other living accommodations for low-income persons. The undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation or gardening or administrative, community, health, recreational, welfare or other purposes. "Housing project" also may be applied to the planning of buildings and improvements, acquisition of property or existing structures, demolition of existing structures, construction, reconstruction, alteration and repair of improvements or buildings or any other work performed to complete housing projects;

E. "local public body" means any county, municipality, commission, district or other subdivision of the state;

F. "low-income person" means any individual, couple or family whose gross income does not exceed eighty percent of the resident's particular county median income and who cannot afford to pay more than thirty percent of gross income for housing rent or mortgage payments or a low-income person as defined by the federal government;

G. "obligee" means:

(1) a holder of bonds issued pursuant to the Regional Housing Law or a trustee for that bondholder;

(2) a lessor leasing to an authority property used in connection with a housing project or any assignee of a lessor's interest or partial interest; or

(3) the federal government when it is a party to a contract with an authority in regard to a housing project;

H. "real property" includes all lands, including improvements and fixtures on the land, property of any nature appurtenant to or used in connection with the land and every estate, interest and right, legal or equitable, in the land, including terms for years and liens by way of judgment, mortgage or other instrument and the indebtedness secured by the lien; and

I. "slum" means any area where dwellings predominate, which by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities or any combination of these factors is detrimental to safety, health or morals."

## **Chapter 50 Section 2 Laws 2007**

Section 2. Section 11-3A-5 NMSA 1978 (being Laws 1994, Chapter 132, Section 5, as amended) is amended to read:

"11-3A-5. JURISDICTION.--A regional authority created by the Regional Housing Law shall operate only within the area of its housing region."

## **Chapter 50 Section 3 Laws 2007**

Section 3. Section 11-3A-6 NMSA 1978 (being Laws 1994, Chapter 132, Section 6, as amended) is amended to read:

"11-3A-6. POWERS OF AUTHORITY IN BOARD OF COMMISSIONERS--  
APPOINTMENT OF BOARD OF AUTHORITIES--TERMS.--

A. The powers of each regional authority shall be vested in its board of commissioners as the board may be constituted, from time to time. The board of commissioners of the authority for each of the seven regions shall consist of seven commissioners who shall be residents of the region for which the authority is created and shall be appointed by the governor. Not more than three commissioners shall be appointed from any one county. Appointments shall be for terms of four years or less and shall be made so that the terms of not more than two commissioners on each board expire on July 1 of each year. Vacancies shall be filled for the unexpired term. Commissioners shall serve until their successors have been appointed.

B. The members of the boards of commissioners may receive per diem and mileage as provided in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance. Each board of commissioners shall select a chair and vice chair from among its members. Each board may employ necessary agents and employees and set the salaries of the agents and employees. Each board may delegate to its agents or employees such duties as the board deems proper. A regional planning and development district, created pursuant to the Planning District Act, may provide technical staff for an authority. Four commissioners shall constitute a quorum of a board for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by an authority upon a vote of a majority of the commissioners present. Each board shall organize itself at its annual meeting each even-numbered year. A board may employ an executive director, subject to approval by the New Mexico mortgage finance authority, and technical experts and other officers, attorneys, agents and employees, permanent and temporary, as the authority requires; to determine employee and contractor qualifications, duties and compensation; and to delegate to one or more employees or contractors the powers or duties that the board deems proper.

C. The financial affairs of every regional authority and any nonprofit corporation created by an authority shall be thoroughly examined and audited annually by the state

auditor, by personnel of the state auditor's office designated by the state auditor or by auditors approved by the state auditor. The audits shall be conducted in accordance with generally accepted auditing standards. Each regional authority shall submit to the state auditor, the department of finance and administration, the New Mexico mortgage finance authority, the Mortgage Finance Authority Act oversight committee and the legislative finance committee, within thirty days following the receipt of the audit by the authority, a copy of the annual audit.

D. Upon receipt of the annual audits, the department of finance and administration shall review each regional authority's audit for approval. Upon a finding of nonapproval of an audit by the department of finance and administration, that regional authority's powers as provided in the Regional Housing Law may be suspended by the department until those conditions that resulted in the nonapproval are remedied to the satisfaction of the department of finance and administration.

E. Effective October 1, 2007, every regional authority shall submit a quarterly report of its activities to the department of finance and administration, the Mortgage Finance Authority Act oversight committee and the legislative finance committee. Each report shall set forth a complete operating and financial statement covering its operations since the previous report was presented."

## **Chapter 50 Section 4 Laws 2007**

Section 4. Section 11-3A-7 NMSA 1978 (being Laws 1994, Chapter 132, Section 7, as amended) is amended to read:

"11-3A-7. POWERS.--

A. Every authority may:

(1) within its region, prepare, carry out, acquire, purchase, lease, construct, reconstruct, improve, alter, extend or repair any housing project and operate and maintain the housing project. For any of such purposes, the board of commissioners of the authority may expend money and authorize the use of any property of the authority;

(2) lease or rent dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and establish and revise the rents or lease charges; own, hold and improve real or personal property; purchase, lease, obtain options upon or acquire by gift, grant, bequest, devise or otherwise any real or personal property or any interest therein; sell, lease, mortgage, exchange, transfer, assign, pledge or dispose of real or personal property or any interest in real or personal property; or procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof, including the power to pay premiums on the insurance;

(3) enter on lands, buildings or property for the purpose of making surveys, soundings and examinations in connection with the planning or construction, or both, of a housing project;

(4) insure or provide for the insurance of a housing project of the authority against the risks that the authority may deem advisable;

(5) arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works or facilities for or in connection with a housing project or the occupants thereof and include in any construction contract let in connection with a housing project stipulations requiring that the contractor and subcontractors comply with employment requirements, including those in the constitution and laws of this state, as to minimum wages and maximum hours of labor and comply with any conditions that the state or federal government may have attached to its financial aid of the project;

(6) within its area of operation, investigate the living, dwelling and housing conditions and the means and methods of improving those conditions; determine where slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for low-

income persons; make studies and recommendations relating to the problem of clearing, replanning and reconstructing slum areas and the problem of providing dwelling accommodations for low-income persons and cooperate with the state or any political subdivision of the state in action taken in connection with the problems identified; and engage in research, studies and experimentation on the subject of housing; and

(7) exercise all or any part or combination of powers granted in this subsection.

B. To standardize the delivery of affordable housing programs and services in New Mexico, regional authorities within their jurisdictions may:

(1) create partnerships between state, federal, city and county governments, nonprofit entities and the private sector that will provide the necessary resources to carry out the planning, financing, development and delivery of affordable housing;

(2) assist city or county authorities or housing nonprofit agencies in developing the knowledge, expertise and technical capacity to provide a comprehensive approach to the development and delivery of affordable housing; or

(3) provide or secure planning, technical assistance and training that city or county governments and nonprofit entities may need in an effort to enhance the local affordable housing delivery system."

## **Chapter 50 Section 5 Laws 2007**

Section 5. Section 11-3A-9 NMSA 1978 (being Laws 1994, Chapter 132, Section 9, as amended) is amended to read:

"11-3A-9. NONPROFIT CORPORATIONS.--Every authority, in addition to other powers conferred by the Regional Housing Law, shall have, if authorized by resolution of its board and approved by the state board of finance, the power to create nonprofit corporations to carry out the powers and duties set forth in Section 11-3A-7 NMSA 1978. The articles of incorporation and bylaws, and any subsequent changes, shall be approved by the state board of finance and the New Mexico mortgage finance authority. Such nonprofit corporations shall be subject to all of the duties and limitations imposed on the authority and its board of commissioners."

## **Chapter 50 Section 6 Laws 2007**

Section 6. A new section of the Regional Housing Law is enacted to read:

"FINANCIAL AND OPERATIONAL OVERSIGHT.--

A. Without the prior approval of the department of finance and administration, no regional authority shall:

(1) enter into any contract, memorandum of understanding or other agreement with a value greater than fifty thousand dollars (\$50,000); or

(2) transfer, sell or liquidate any real or personal property with a value greater than twenty thousand dollars (\$20,000).

B. Not less than thirty days prior to the beginning of its fiscal year, each regional authority and each nonprofit corporation established pursuant to Section 11-3A-9 NMSA 1978 shall submit a proposed operating budget for the subsequent fiscal year to the department of finance and administration for approval. A final operating budget shall be submitted by July 1 of each year. On and after July 1, 2007, no authority shall operate pursuant to the Regional Housing Law if its budget has not been approved by the department. All operations of an authority shall be conducted pursuant to the approved operating budget except that:

(1) budget adjustments totaling less than five percent of the operating budget may be made with prior notice to the department; and

(2) budget adjustments totaling five percent or more of the operating budget may be made with the prior approval of the department.

C. Prior to each fiscal year, the New Mexico mortgage finance authority shall conduct a needs assessment of the programs of each regional authority and shall work

with and advise each authority on developing a plan to meet the assessed needs and in conjunction with the state housing plan."

## **Chapter 50 Section 7 Laws 2007**

### Section 7. TEMPORARY PROVISIONS.--

A. No later than July 1, 2007, each nonprofit corporation exercising a power or performing any act under the Regional Housing Law shall submit its bylaws and articles of incorporation to the New Mexico mortgage finance authority for approval. After September 1, 2007, a nonprofit corporation shall conduct no business under the Regional Housing Law unless its bylaws and articles of incorporation have been approved.

B. By September 1, 2007, each executive director of a regional housing authority shall be approved by the New Mexico mortgage finance authority or shall be deemed to have resigned.

C. On September 1, 2007, the position of each commissioner of a regional housing authority who has not been appointed or reappointed by the governor after April 1, 2007 shall be deemed vacant.

D. Notwithstanding any requirement of the Regional Housing Law for the sale of housing projects or units with housing projects for a specific purpose, with the prior approval of the department of finance and administration, a regional housing authority may sell any property held on April 1, 2007 that is not suitable for the purposes of that act.

## **Chapter 50 Section 8 Laws 2007**

Section 8. APPROPRIATION--ACCOUNTING OF ASSETS.--Two hundred thousand dollars (\$200,000) is appropriated from the general fund to the state auditor for expenditure in fiscal years 2007 and 2008 for the purpose of conducting an accounting of all assets acquired by regional housing authorities pursuant to the Regional Housing Law. No later than December 1, 2007, the results of the accounting shall be presented to the legislative finance committee, the Mortgage Finance Authority Act oversight committee and the department of finance and administration. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 50 Section 9 Laws 2007**

Section 9. REPEAL.--Sections 11-3A-11, 11-3A-14 through 11-3A-18 and 11-3A-27 NMSA 1978 (being Laws 1994, Chapter 132, Sections 11, 14 through 18 and 27, as amended) are repealed.

## **Chapter 50 Section 10 Laws 2007**

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

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Senate Bill 519, as amended

with emergency clause

Approved March 28, 2007

## **LAWS 2007, CHAPTER 51**

AN ACT

MAKING AN APPROPRIATION FOR DRINKING WATER SYSTEM FINANCING;  
DECLARING AN EMERGENCY.

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

### **Chapter 51 Section 1 Laws 2007**

Section 1. APPROPRIATION.--Four million dollars (\$4,000,000) is appropriated from the public project revolving fund to the drinking water state revolving loan fund for expenditure in fiscal year 2007 and subsequent fiscal years to provide state matching funds for federal Safe Drinking Water Act of 1974 projects and to carry out the purposes of the Drinking Water State Revolving Loan Fund Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

### **Chapter 51 Section 2 Laws 2007**

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 105

with emergency clause

Approved March 29, 2007

# **LAWS 2007, CHAPTER 52**

AN ACT

MAKING AN APPROPRIATION TO CONTRACT FOR THE PROVISION OF A SCIENCE AND ENGINEERING FAIR IN ALBUQUERQUE; DECLARING AN EMERGENCY.

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

## **Chapter 52 Section 1 Laws 2007**

Section 1. APPROPRIATION.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the local government division of the department of finance and administration for expenditure in fiscal years 2007 and 2008 to provide for a science and engineering fair in the city of Albuquerque. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 52 Section 2 Laws 2007**

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 131, as amended

with emergency clause

Approved March 29, 2007

# **LAWS 2007, CHAPTER 53**

AN ACT

RELATING TO HEALTH INSURERS; REQUIRING INSURERS TO PROVIDE CLAIMS EXPERIENCE INFORMATION TO EMPLOYERS.

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

## **Chapter 53 Section 1 Laws 2007**

Section 1. Section 59A-23-3.1 NMSA 1978 (being Laws 1985, Chapter 167, Section 1, as amended) is amended to read:

### "59A-23-3.1. GROUP INSURANCE REPORTS REQUIRED.--

A. At least quarterly, upon request by the employer, each insurer who has delivered or issued for delivery a policy of group insurance covering twenty-six or more employees, all or a portion of the premiums for which is paid by the employer of the insureds, shall submit to the employer a financial summary report by coverage of expenses incurred by or on behalf of the employees of that employer since the last report. The report shall include the number and amount of monthly paid claims, monthly covered lives and an accounting of reserves and retention costs.

B. Upon request by the employer, each insurer shall provide to the employer claims information that provides sufficient detail, subject to state and federal privacy laws, to enable the employer to obtain and compare group health insurance rates from multiple insurers or establish a plan of self-insurance.

C. The report and claims information required by this section shall be provided within thirty days from the date of request."

## **Chapter 53 Section 2 Laws 2007**

Section 2. Section 59A-46-26.1 NMSA 1978 (being Laws 2003, Chapter 252, Section 4) is amended to read:

"59A-46-26.1. EMPLOYER UTILIZATION AND LOSS EXPERIENCE AVAILABILITY.--Employer claims information, including utilization and loss experience under health insurance provided under Chapter 59A, Article 46 NMSA 1978 shall be made available by the carrier only upon the written request of and to employers of enrollees with such coverage within thirty days of an employer's written request for such information to the carrier, provided the employer's coverage extends to no less than twenty-five individual enrollees, regardless of whether family coverage is included. Each carrier shall provide to the employer claims information that provides sufficient detail, subject to state and federal privacy laws, to enable the employer to obtain and compare rates from multiple carriers or establish a plan of self-insurance."

## **Chapter 53 Section 3 Laws 2007**

Section 3. Section 59A-47-39 NMSA 1978 (being Laws 2003, Chapter 252, Section 5) is amended to read:

"59A-47-39. EMPLOYER UTILIZATION AND LOSS EXPERIENCE AVAILABILITY.-- Employer claims information, including utilization and loss experience under health insurance provided under Chapter 59A, Article 47 NMSA 1978 shall be made available by the carrier only upon the written request of and to employers of subscribers with such coverage within thirty days of an employer's written request to the carrier for such information, provided the employer's coverage extends to no less than twenty-five individual subscribers, regardless of whether family coverage is included.

Each carrier shall provide to the employer claims information that provides sufficient detail, subject to state and federal privacy laws, to enable the employer to obtain and compare rates from multiple carriers or establish a plan of self-insurance."

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Senate Corporations and Transportation Committee

substitute for Senate Bill 257, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 54**

AN ACT

RELATING TO LAW ENFORCEMENT; PROVIDING FOR THE ORGANIZATION, POWERS AND ADMINISTRATION OF THE MOTOR TRANSPORTATION DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY.

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

### **Chapter 54 Section 1 Laws 2007**

Section 1. A new section of Chapter 65 NMSA 1978 is enacted to read:

"DIVISION ORGANIZED.--There is organized in the department the "motor transportation division"."

### **Chapter 54 Section 2 Laws 2007**

Section 2. A new section of Chapter 65 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in Sections 1 through 8 of this act:

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

B. "department" means the department of public safety;

C. "division" means the motor transportation division of the department;

D. "officer" means a commissioned officer of the division;

E. "personnel board" means the personnel board created in the Personnel Act;

and

F. "secretary" means the secretary of public safety."

### **Chapter 54 Section 3 Laws 2007**

Section 3. A new section of Chapter 65 NMSA 1978 is enacted to read:

"DIVISION--ORGANIZATION.--The division shall consist of a director, deputy director, majors, captains, lieutenants, sergeants, patrol officers and noncommissioned personnel according to the Personnel Act within the limits of the funds appropriated for the division."

### **Chapter 54 Section 4 Laws 2007**

Section 4. A new section of Chapter 65 NMSA 1978 is enacted to read:

"APPOINTMENTS--REMOVAL.--The secretary shall appoint the director. The director shall serve at the pleasure of the secretary. The director is the executive officer of the division and shall be subject to the control, supervision and direction of the secretary. All officers and civilian employees of the division shall be appointed by the director according to personnel board rules."

### **Chapter 54 Section 5 Laws 2007**

Section 5. A new section of Chapter 65 NMSA 1978 is enacted to read:

"QUALIFICATIONS OF AN OFFICER.--An officer, except the director, shall:

A. at the time of the officer's appointment, be a citizen of the United States and at least twenty-one years of age;

B. be of good moral character and not have been convicted of a felony or an infamous crime in a court of a county, this state or another state or in a federal court;

C. pass a physical examination and any other examination the department may require; and

D. hold a high school diploma or the equivalent."

### **Chapter 54 Section 6 Laws 2007**

Section 6. A new section of Chapter 65 NMSA 1978 is enacted to read:

"DIRECTOR AND OTHER OFFICERS--POWERS AND DUTIES.--The director and other officers shall be:

A. peace officers in the performance of their duties with full power to apprehend, arrest and bring before the proper court law violators within the state and authority to enforce the Motor Carrier Act, the Motor Transportation Act, the Motor Vehicle Code and the Criminal Code; and

B. ex-officio deputies and agents of the officers of the taxation and revenue department and of the officers and departments within the state charged with registration of motor vehicles and the issuance of licenses to operators of motor vehicles."

## **Chapter 54 Section 7 Laws 2007**

Section 7. A new section of Chapter 65 NMSA 1978 is enacted to read:

"COMMISSIONS--SALARY.--

A. The director shall commission officers.

B. The personnel board shall determine the pay band assignments for officers."

## **Chapter 54 Section 8 Laws 2007**

Section 8. A new section of Chapter 65 NMSA 1978 is enacted to read:

"UNIFORM AND BADGES--UNIFORM ALLOWANCE TO BE SET BY SECRETARY.--The secretary shall prescribe a suitable and distinctive uniform for officers. The secretary shall provide and issue to each officer a uniform and an appropriate badge, which shall contain in plain legible letters the words "Motor Transportation Police". The prescribed uniform and badge shall be worn at all times when on duty, except by direction of the director, the secretary or the governor. A uniform allowance shall be established by the secretary and allowed in addition to an officer's and a noncommissioned uniformed employee's salary and paid according to department policy."

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Senate Bill 261

Approved March 29, 2007

# **LAWS 2007, CHAPTER 55**

AN ACT

RELATING TO PROCUREMENT; EXEMPTING THE CULTURAL AFFAIRS DEPARTMENT FROM THE PROCUREMENT CODE FOR PROCUREMENT OF PRINTING SERVICES FOR MATERIALS PRODUCED AND INTENDED FOR RESALE BY THE DEPARTMENT; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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

## **Chapter 55 Section 1 Laws 2007**

Section 1. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended by Laws 2005, Chapter 23, Section 2 and by Laws 2005, Chapter 317, Section 2 and by Laws 2005, Chapter 318, Section 1 and also by Laws 2005, Chapter 334, Section 8) is amended to read:

"13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The provisions of the Procurement Code shall not apply to:

A. procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;

B. procurement of tangible personal property or services for the governor's mansion and grounds;

C. printing and duplicating contracts involving materials that are required to be filed in connection with proceedings before administrative agencies or state or federal courts;

D. purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;

E. purchases of books and periodicals from the publishers or copyright holders thereof;

F. travel or shipping by common carrier or by private conveyance or to meals and lodging;

G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;

H. contracts with businesses for public school transportation services;

I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the corrections industries division of the

corrections department pursuant to rules adopted by the corrections industries commission, which shall be reviewed by the purchasing division of the general services department prior to adoption;

J. minor purchases not exceeding five thousand dollars (\$5,000) consisting of magazine subscriptions, conference registration fees and other similar purchases where prepayments are required;

K. municipalities having adopted home rule charters and having enacted their own purchasing ordinances;

L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;

M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;

N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;

O. contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;

P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

Q. contracts with professional entertainers;

R. contracts and expenditures for litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts;

S. contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in improvement districts pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in county improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978;

T. works of art for museums or for display in public buildings or places;

U. contracts entered into by a local public body with a person, firm, organization, corporation or association or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico for the operation and maintenance of a hospital pursuant to Chapter 3, Article 44-5 NMSA 1978, lease or operation of a county hospital pursuant to the Hospital Funding Act or operation and maintenance of a hospital pursuant to the Special Hospital District Act;

V. purchases of advertising in all media, including radio, television, print and electronic;

W. purchases of promotional goods intended for resale by the tourism department;

X. procurement of printing services for materials produced and intended for resale by the cultural affairs department;

Y. procurement by or through the public education department from the federal department of education relating to parent training and information centers designed to increase parent participation, projects and initiatives designed to improve outcomes for students with disabilities and other projects and initiatives relating to the administration of improvement strategy programs pursuant to the federal Individuals with Disabilities Education Act; provided that the exemption applies only to procurement of services not to exceed two hundred thousand dollars (\$200,000);

Z. procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act;

AA. purchases of products or services for eligible persons with disabilities pursuant to the federal Rehabilitation Act of 1973;

BB. procurement of an agreement, pursuant to Section 9-7-6.5 NMSA 1978, to operate Fort Bayard medical center or to provide and operate in Grant county a replacement facility for Fort Bayard medical center; and

CC. contracts for investment advisory services, investment management services or other investment-related services entered into by the educational retirement board, the state investment officer or the retirement board created pursuant to the Public Employees Retirement Act."

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Senate Bill 275

with certificate of correction

Approved March 29, 2007

# **LAWS 2007, CHAPTER 56**

## **AN ACT**

RELATING TO CONSTRUCTION INDUSTRIES LICENSING; AMENDING SECTION 60-13-18 NMSA 1978 (BEING LAWS 1967, CHAPTER 199, SECTION 20, AS AMENDED) TO ADD REQUIREMENTS RELATED TO CONTINUING EDUCATION.

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

### **Chapter 56 Section 1 Laws 2007**

Section 1. Section 60-13-18 NMSA 1978 (being Laws 1967, Chapter 199, Section 20, as amended) is amended to read:

"60-13-18. LICENSES--RENEWAL.--

A. Licenses issued by the division are not transferable.

B. Contractor's licenses shall expire two years after the issuance date or as determined by the division, but in no instance less than one year, and shall be renewable upon application to the division and payment of the prescribed renewal fee; provided that nothing in this subsection shall prohibit the division from establishing a staggered system of license expiration and a procedure for proration of fees for licenses issued for less than the

two-year period or other period provided by the division pursuant to this subsection.

C. Licenses shall expire upon the date established by regulation of the commission, such regulation to provide for a staggered system of license expiration and for proration of fees for licenses issued for less than a full year. Thereafter, such licenses shall be issued for a period of two years or as otherwise provided by the division pursuant to Subsection B of this section. Licenses shall be subject to renewal upon application to the division and payment of the prescribed renewal fee.

D. Licensees and journeyman certificate holders may be required to complete and submit proof of continuing education as a prerequisite for renewal of a license. When required by rule adopted by the division, an applicant for a license renewal must submit with the application for license renewal proof of eight hours of instruction in code change and eight hours of instruction in other industry-related and division-approved subjects. The sixteen hours of continuing education must have been completed within the three years prior to the date of the license renewal application.

E. The director shall, at least thirty days prior to the expiration date of a license, notify the licensee of the approaching expiration. Notice shall be given by mail addressed to the licensee's last address on file with the division. The notice shall include a renewal application form, instructions and any other information prescribed by the division.

F. Failure of a licensee to make application for the renewal of the licensee's license, to furnish such other information required by the commission and to pay the prescribed renewal fee by the last working day prior to the expiration of the license shall cause the license to be suspended by operation of law.

G. Unless the license is renewed within a three-month period, it shall be canceled. The suspended license may be renewed only after payment of a fee equal to one dollar (\$1.00) for each day, up to thirty days, that has elapsed since the expiration date of the license and thereafter for a fee equal to twice the amount of the renewal fee."

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Senate Bill 297, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 57**

### **AN ACT**

RELATING TO PUBLIC PROPERTY; CREATING THE SURPLUS PROPERTY BUREAU; PROVIDING POWERS AND DUTIES; CREATING A FUND; AUTHORIZING STOREFRONT SALES OF SURPLUS PROPERTY; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

### **Chapter 57 Section 1 Laws 2007**

Section 1. A new section of Chapter 13, Article 6 NMSA 1978 is enacted to read:

"SURPLUS PROPERTY BUREAU CREATED--DUTIES--POWERS.--

A. The "surplus property bureau" is created in the transportation services division of the general services department. The surplus property bureau is designated as the New Mexico agency responsible for distribution of federal surplus personal property, excepting food commodities, in accordance with subdivision (j) of Section 203 of the Federal Property and Administrative Services Act of 1949. The surplus property bureau is also designated as the agency for distribution or disposal of state surplus property.

B. The surplus property bureau shall:

(1) develop a detailed state plan of operation for the management and administration of surplus property acquired from the federal government that complies with the Federal Property and Administrative Services Act of 1949 and regulations promulgated in accordance with that act;

(2) cooperate with the federal government

and its agencies in securing the expeditious and equitable

distribution of federal surplus personal property, excepting food commodities, to eligible institutions in New Mexico, and assist those institutions in securing that property;

(3) dispose of unusable federal surplus property in accordance with subdivision (j) of Section 203 of the Federal Property and Administrative Services Act of 1949; and

(4) manage a program to recycle, donate, sell or dispose of state surplus tangible personal property.

C. The surplus property bureau may:

(1) enter into agreements with the federal government or its agencies for the purchase, lease, receipt as a loan or gift or any other means of acquisition of any real or personal property without regard to provisions of state law that require:

(a) the posting of notices or public advertising for bids;

(b) the inviting or receiving of competitive bids; or

(c) the delivery of purchases before payment;

(2) enter into cooperative agreements for the sale, transfer or disposal of federal surplus property that has not been distributed;

(3) enter into contracts with other state agencies for the purpose of acquiring or disposing of any tangible personal property originally purchased with state money as specified by rule of the transportation services division of the general services department; and

(4) designate the representative of a user to enter a bid at a sale of real or personal property owned by the United States government or any agency or department thereof and authorize that person to make payment required in connection with the bidding."

## **Chapter 57 Section 2 Laws 2007**

Section 2. A new section of Chapter 13, Article 6 NMSA 1978 is enacted to read:

"SURPLUS PROPERTY FUND--CREATED--EXPENDITURES.--

A. The "surplus property fund" is created as a nonreverting fund in the state treasury. The fund consists of money received from the sale of surplus property by the surplus property bureau of the transportation services division of the general services department. The surplus property bureau shall administer the fund, and money in the fund is subject to appropriation by the legislature to carry out activities relating to the acquisition, transfer and sale of surplus government property. Money in the fund shall be disbursed on vouchers approved and warrants signed by the director of the transportation services division of the general services department or the director's authorized representative.

B. Money in the surplus property fund attributable to the sale of federal property shall be held and accounted for separately from money attributable to the purchase or sale of state property."

### **Chapter 57 Section 3 Laws 2007**

Section 3. A new section of Chapter 13, Article 6 NMSA 1978 is enacted to read:

"DISPOSITION OF STATE PROPERTY.--The surplus property bureau of the transportation services division of the general services department may dispose of tangible personal property, except property acquired from the United States government, by advertising the availability of the property as follows:

A. for the first forty-five-day period, to any agency that has entered into an agreement with the bureau;

B. for the second forty-five-day period, to any agency or tax-exempt entity that has filed its written certificate of tax exemption with the bureau;

C. for the third forty-five-day period, to any agency or tax-exempt entity or to the public through a storefront operation on days and at times specified by rule of the bureau; and

D. after the third forty-five-day period, by auction or any other means of disposal in compliance with environmental standards for disposal of tangible personal property."

### **Chapter 57 Section 4 Laws 2007**

Section 4. Section 13-6-1 NMSA 1978 (being Laws 1961, Chapter 100, Section 1, as amended) is amended to read:

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

A. The governing authority of each state agency, local public body, school district and state educational institution may dispose of any item of tangible personal property

belonging to that authority and delete the item from its public inventory upon a specific finding by the authority that the item of property is:

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Chapter 57 Section 5 Laws 2007**

Section 5. Section 13-6-2 NMSA 1978 (being Laws 1979, Chapter 195, Section 3, as amended) is amended to read:

"13-6-2. SALE OF PROPERTY BY STATE AGENCIES OR LOCAL PUBLIC BODIES--AUTHORITY TO SELL OR DISPOSE OF PROPERTY--APPROVAL OF APPROPRIATE APPROVAL AUTHORITY.--

A. Providing a written determination has been made, a state agency, local public body, school district or state educational institution may sell or otherwise dispose of real or tangible personal property belonging to the state agency, local public body, school district or state educational institution.

B. A state agency, local public body, school district or state educational institution may sell or otherwise dispose of real property:

(1) by negotiated sale or donation to an Indian nation, tribe or pueblo located wholly or partially in New Mexico, or to a governmental unit of an Indian nation, tribe or pueblo in New Mexico, that is authorized to purchase land and control activities on its land by an act of congress or to purchase land on behalf of the Indian nation, tribe or pueblo;

(2) by negotiated sale or donation to other state agencies, local public bodies, school districts or state educational institutions;

(3) through the central purchasing office of the state agency, local public body, school district or state educational institution by means of competitive sealed bid, public auction or negotiated sale to a private person or to an Indian nation, tribe or pueblo in New Mexico; or

(4) if a state agency, through the surplus property bureau of the transportation services division of the general services department.

C. A state agency shall give the surplus property bureau of the transportation services division of the general services department the right of first refusal to dispose of tangible personal property of the state agency. A school district may give the surplus property bureau the right of first refusal to dispose of tangible personal property of the school district.

D. Except as provided in Section 13-6-2.1 NMSA 1978 requiring state board of finance approval for certain transactions, sale or disposition of real or tangible personal property having a current resale value of more than five thousand dollars (\$5,000) may be made by a state agency, local public body, school district or state educational institution if the sale or disposition has been approved by the state budget division of the department of finance and administration for state agencies, the local government division of the department of finance and administration for local public bodies, the public education department for school districts and the higher education department for state educational institutions.

E. Prior approval of the appropriate approval authority is not required if the tangible personal property is to be used as a trade-in or exchange pursuant to the provisions of the Procurement Code.

F. The appropriate approval authority may condition the approval of the sale or other disposition of real or tangible personal property upon the property being offered for sale or donation to a state agency, local public body, school district or state educational institution.

G. The appropriate approval authority may credit a payment received from the sale of such real or tangible personal property to the governmental body making the sale. The state agency, local public body, school district or state educational institution may convey all or any interest in the real or tangible personal property without warranty.

H. This section does not apply to:

- (1) computer software of a state agency;
- (2) those institutions specifically enumerated in Article 12, Section 11 of the constitution of New Mexico;
- (3) the New Mexico state police division of the department of public safety;
- (4) the state land office or the department of transportation;
- (5) property acquired by a museum through abandonment procedures pursuant to the Abandoned Cultural Properties Act;
- (6) leases of county hospitals with any person pursuant to the Hospital Funding Act;

(7) property acquired by the economic development department pursuant to the Statewide Economic Development Finance Act; and

(8) the state parks division of the energy, minerals and natural resources department."

### **Chapter 57 Section 6 Laws 2007**

Section 6. TEMPORARY PROVISION--TRANSFER OF MONEY.--On the effective date of this act, all money in the surplus property revolving fund shall be transferred to the surplus property fund.

### **Chapter 57 Section 7 Laws 2007**

Section 7. REPEAL.--Sections 15-4-2 and 15-4-3 NMSA 1978 (being Laws 1971, Chapter 189, Sections 2 and 3, as amended) are repealed.

### **Chapter 57 Section 8 Laws 2007**

Section 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 313, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 58**

AN ACT

RELATING TO HEALTH AND SAFETY; LIMITING RECEIVERSHIP LIABILITY;  
AMENDING THE HEALTH FACILITY RECEIVERSHIP ACT.

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

### **Chapter 58 Section 1 Laws 2007**

Section 1. Section 24-1E-5 NMSA 1978 (being Laws 1996, Chapter 35, Section 8) is amended to read:

"24-1E-5. RECEIVER'S POWERS AND DUTIES.--

A. In addition to the receiver's powers and duties under the Receivership Act, the secretary as receiver and any deputy receiver under the Health Facility Receivership Act shall, except as the district court may otherwise order:

(1) perform all acts that are necessary to:

(a) correct or remedy each condition on which the receiver's appointment was based;

(b) ensure adequate care and necessary services for each resident or other person in the health facility;

(c) bring the facility into compliance with all applicable state and federal laws, rules and regulations; and

(d) manage and operate the health facility, including closing down, expanding or initiating new operations, hiring and firing officers and employees, contracting for necessary services, personnel, supplies, equipment, facilities and all other appropriate things, purchasing, selling, marshaling and otherwise managing its property and assets, paying the facility's obligations that are directly related to the health facility's operations or for providing adequate care and necessary services to residents or for other persons in the health facility, borrowing money and property and giving security for these and expending funds of the facility;

(2) give notice of establishment of the receivership to interested persons and publish notice in a newspaper of general circulation in each county in which the health care facility and any of its satellite facilities is located;

(3) if a resident or other person in the health facility is to be discharged or transferred, discuss the options for alternative placement with the resident, other person in the health facility or the guardian of that resident or other person in the health facility, as applicable, and arrange to transfer the records and personal property of the resident or other person in the health facility to the alternative placement facility; and

(4) with the court's approval, void any lease, mortgage, secured transaction, contract or other agreement made prior to the appointment of the receiver or any transfer of money or property made within one year prior to the filing of the petition if such lease, mortgage, secured transaction, contract, agreement or other transfer of money or property was made without fair consideration, including excessive interest rate, was made with actual intent to hinder, delay or defraud either future or existing creditors, was made with shareholders or owners of the health facility or persons otherwise having an interest in the health facility or was unrelated to the normal and expected maintenance and operation of the health facility.

B. If, in the exercise of the receiver's powers pursuant to this section, the receiver is in possession of real estate, real or personal property or other goods or services

subject to a lease, mortgage, secured transaction, contract or other agreement subject to being voided by the receiver pursuant to Paragraph (4) of Subsection A of this section, and such real estate, real or personal property or other goods or services are necessary for the continued operation of the health facility during the receivership, the receiver may, in lieu or seeking to void such lease, mortgage, secured transaction, contract or other agreement, apply to the court to set a reasonable price, rate or rate of interest to be paid by the receiver under such lease, mortgage, secured transaction, contract or other agreement during the duration of the receivership. The receiver shall send notice of such an application to any known parties of the property, services or goods involved and shall publish the notice once at least thirty days prior to the hearing date in a newspaper of general circulation, and the court shall hold a hearing on the receiver's application within thirty days after the filing of the application by the receiver. Payment by the receiver of the amount determined by the court to be reasonable is a defense to any action against the receiver for payment or possession of the real estate, real or personal property or other goods or services, or to revocation of such services subject to the lease, mortgage, secured transaction, contract or other agreement. Payment by the receiver of the amount determined by the court to be reasonable shall not relieve the health facility from any liability upon termination of the receivership for the difference between the amount paid by the receiver and the amount due under the original lease, mortgage, secured transaction, contract or other agreement.

C. Nonpayment by the receiver of any debt of the health facility under a lease, mortgage, secured transaction, contract or other agreement reasonably deemed by the receiver not to be directly related to the health facility's operations or for providing adequate care and necessary services to residents or other persons in the health facility shall not subject the receiver to liability for payment. Nonpayment of any lease, mortgage, secured transaction, contract or other agreement reasonably deemed by the receiver not to be directly related to the health facility's operations or for providing adequate care and necessary services to residents or other persons in the health facility shall not relieve the health facility from any liability upon termination of the receivership for payment of the full amount due under the lease, mortgage, secured transaction, contract or other agreement.

D. A deputy receiver shall have the same powers and duties as the receiver, unless the court orders otherwise."

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Senate Bill 399, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 59**

AN ACT

RELATING TO LAW ENFORCEMENT; INCREASING THE SUPPLEMENTAL DEATH BENEFITS FOR THE SURVIVORS OF A PEACE OFFICER KILLED IN THE LINE OF DUTY.

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

## **Chapter 59 Section 1 Laws 2007**

Section 1. Section 29-4A-5 NMSA 1978 (being Laws 1995, Chapter 59, Section 5, as amended) is amended to read:

"29-4A-5. PEACE OFFICERS' SURVIVORS SUPPLEMENTAL DEATH BENEFITS--REVIEW COMMITTEE--DETERMINATION--PAYMENT.--

A. There is created the "peace 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' survivors supplemental death benefits review committee shall determine whether a peace 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 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."

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Senate Bill 433, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 60**

AN ACT

RELATING TO ANIMALS; ENACTING THE ANIMAL SHELTERING SERVICES ACT; CREATING LICENSING PROCEDURES FOR EUTHANASIA PROVIDERS AND EUTHANASIA AGENCIES; CREATING CERTIFICATION PROCEDURES FOR EUTHANASIA INSTRUCTORS; PROMOTING SAFE AND HUMANE CONDITIONS FOR ANIMALS IN ANIMAL SHELTERS; CREATING A FUND; CREATING A BOARD;

PROVIDING BOARD POWERS AND DUTIES; PROVIDING FOR EXEMPTIONS;  
PROVIDING PENALTIES.

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

### **Chapter 60 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "Animal Sheltering Services Act".

### **Chapter 60 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the Animal Sheltering Services Act:

A. "animal" means any animal, except humans, not defined as "livestock" in Subsection L of this section;

B. "animal shelter":

(1) means:

(a) a county or municipal facility that provides shelter to animals on a regular basis, including a dog pound; and

(b) a private humane society or a private animal shelter that temporarily houses stray, unwanted or injured animals through administrative or contractual arrangements with a local government agency; and

(2) does not include a municipal zoological park;

C. "board" means the animal sheltering services board;

D. "department" means the regulation and licensing department;

E. "disposition" means adoption of an animal; return of an animal to the owner; release of an animal to a rescue organization; release of an animal to another animal shelter licensed pursuant to the Animal Sheltering Services Act or to a rehabilitator licensed by the department of game and fish or the United States fish and wildlife service; or euthanasia of an animal;

F. "emergency field euthanasia" means the process defined by rule of the board to cause the death of an animal in an emergency situation when safe and humane transport of the animal is not possible;

G. "euthanasia" means to produce a humane death of an animal by standards deemed acceptable by the board as set forth in its rules;

H. "euthanasia agency" means a facility that provides shelter to animals on a regular basis, including a dog pound, a humane society or a public or private shelter facility that temporarily houses stray, unwanted or injured animals, and that performs euthanasia;

I. "euthanasia drugs" means non-narcotic schedule II or schedule III substances and chemicals as set forth in the Controlled Substances Act that are used for the purposes of euthanasia and pre-euthanasia of animals;

J. "euthanasia instructor" means a euthanasia provider licensed and certified by the board to instruct other individuals in euthanasia techniques;

K. "euthanasia provider" means a person licensed by the board to euthanize animals for a euthanasia agency;

L. "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals;

M. "rescue organization" means an organization that rescues animals and is not involved in the breeding of animals;

N. "supervising veterinarian" means a person who is a veterinarian, who holds both a valid New Mexico controlled substance license and a valid federal drug enforcement agency license and who approves the drug protocols and the procurement and administration of all pharmaceuticals; and

O. "veterinarian" means a person who is licensed as a doctor of veterinary medicine by the board of veterinary medicine pursuant to the Veterinary Practice Act.

## **Chapter 60 Section 3 Laws 2007**

### **Section 3. BOARD CREATED--MEMBERS--QUALIFICATIONS--TERMS -- VACANCIES--REMOVAL.--**

A. The "animal sheltering services board" is created. The board shall consist of nine members as follows:

(1) one euthanasia agency employee with training and education in euthanasia;

(2) one licensed veterinarian who has provided paid or unpaid services to an animal shelter;

(3) one representative from a nonprofit animal advocacy group;

(4) one member of the public;

(5) a manager or director of a New Mexico facility that provides shelter to animals on a regular basis, provided that the manager or director selected is trained in animal shelter standards;

(6) one representative of the New Mexico association of counties;

(7) one representative of the New Mexico municipal league;

(8) one member of a rescue organization; and

(9) one member of the domestic pet breeder community.

B. No more than two board members shall be appointed from any one county within the state. Appointments shall be made in such manner that the terms of no more than two board members expire on July 1 of each year.

C. The board is administratively attached to the department.

D. The board and its operations are governed by the Uniform Licensing Act. If the provisions of the Uniform Licensing Act conflict with the provisions of the Animal Sheltering Services Act, the provisions of the Animal Sheltering Services Act shall prevail.

E. The governor shall appoint board members for terms of four years, except in the first year of the enactment of the Animal Sheltering Services Act, when board members shall be appointed for staggered terms. Of the first appointments, three board members shall be appointed for four-year terms, two board members shall be appointed for three-year terms, two board members shall be appointed for two-year terms and two board members shall be appointed for one-year terms. Subsequent appointments shall be made to fill vacancies created in unexpired terms, but only until the term ends or for a full four-year term when the term of a board member expires. Board members shall hold office until their successors are duly qualified and appointed. Vacancies shall be filled by appointment by the governor for the unexpired term within sixty days of the vacancy to maintain the required composition of the board.

F. Members of the board shall be reimbursed for per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance, but shall be permitted to attend at least one conference or seminar per year relevant to their board position as the board's budget will allow.

G. A simple majority of the appointed board members constitutes a quorum.

H. The board shall hold at least four regular meetings each year and may meet at such other times as it deems necessary.

I. A board member shall not serve more than two full or partial terms, consecutive or otherwise.

J. A board member failing to attend three duly noticed meetings, regular or special, within a twelve-month period, without an excuse acceptable to the board, may be removed as a board member.

K. The board shall elect a chair and other officers as it deems necessary to administer its duties.

L. The department shall hire employees to execute the daily operations of the board. One employee shall be a veterinarian who holds both a valid New Mexico controlled substance license and a valid federal drug enforcement agency license, and who will be responsible for ordering, maintaining and dispensing euthanasia drugs as necessary in accordance with local, state and federal laws.

## **Chapter 60 Section 4 Laws 2007**

### **Section 4. FUND CREATED--ADMINISTRATION.--**

A. The "animal care and facility fund" is created in the state treasury. All fees collected pursuant to the Animal Sheltering Services Act shall be deposited in the fund.

B. The animal care and facility fund shall consist of money collected by the board pursuant to the Animal Sheltering Services Act; income from investment of the fund; and money appropriated to the fund or accruing to it through fees or administrative penalties, cooperative research agreements, income, gifts, grants, donations, bequests, sales of promotional items, handbooks or educational materials or any other source. Money in the fund shall not be transferred to another fund or encumbered or expended except for expenditures authorized pursuant to the Animal Sheltering Services Act.

C. Money in the fund is subject to appropriation by the legislature to the department to be used to help animal shelters and communities defray the cost of implementing the board's initiatives conducted pursuant to the Animal Sheltering Services Act. The fund shall be administered by the department to carry out the purposes of the Animal Sheltering Services Act.

D. A disbursement from the fund shall be made only upon a warrant drawn by the secretary of finance and administration pursuant to a voucher signed by the superintendent of regulation and licensing or the superintendent's designee.

E. Unexpended and unencumbered balances in the fund at the end of a fiscal year shall not revert to the general fund.

## **Chapter 60 Section 5 Laws 2007**

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

- A. provide board-recommended standards regarding the infrastructure for all animal shelters;
- B. provide board-recommended operating standards for all animal shelters;
- C. adopt methods and procedures acceptable for conducting emergency field euthanasia;
- D. adopt, promulgate and revise rules necessary to carry out the provisions of the Animal Sheltering Services Act;
- E. have authority to issue licenses and certificates pursuant to the Animal Sheltering Services Act;
- F. establish the types of licenses and certificates that may be issued pursuant to the Animal Sheltering Services Act and establish criteria for issuing the licenses and certificates;
- G. prescribe standards and approve curricula for educational programs that will be used to train and prepare persons for licensure or certification pursuant to the Animal Sheltering Services Act;
- H. implement continuing education requirements for licensees and certificate holders pursuant to the Animal Sheltering Services Act;
- I. conduct administrative hearings upon charges relating to violations of provisions of the Animal Sheltering Services Act or rules adopted pursuant to that act in accordance with the Uniform Licensing Act;
- J. provide for all examinations and for issuance and renewal of licenses and certificates;
- K. establish fees not to exceed one hundred fifty dollars (\$150) for licenses and certificates pursuant to the Animal Sheltering Services Act;
- L. establish committees as the board deems necessary to effect the provisions of the Animal Sheltering Services Act;
- M. apply for injunctive relief to enforce the provisions of the Animal Sheltering Services Act;
- N. conduct national criminal background checks on applicants seeking licensure or certification under the Animal Sheltering Services Act;

- O. keep a record of all proceedings;
- P. make an annual report to the legislature and to the governor;
- Q. provide for the inspection of animal shelters and euthanasia agencies;
- R. develop mechanisms to address complaints of misconduct at animal shelters and euthanasia agencies and noncompliance with the provisions of the Animal Sheltering Services Act or rules adopted pursuant to that act;
- S. develop mechanisms to address complaints of licensee and certificate holder misconduct and noncompliance;
- T. develop and implement comprehensive dog and cat spay and neuter plans and community outreach plans in support of and in conjunction with animal shelters and euthanasia agencies;
- U. disburse money from the animal care and facility fund;
- V. provide board-recommended standards for maintaining records concerning health care and disposition of animals; and
- W. refer to national animal control association standards in determining its regulations.

## **Chapter 60 Section 6 Laws 2007**

### Section 6. EUTHANASIA PROVIDER--LICENSE.--

- A. The board shall have authority to license euthanasia providers.
- B. A person, other than a veterinarian licensed to practice in New Mexico, who engages in euthanasia for a euthanasia agency in this state shall be licensed by the board.
- C. Applicants for licensure by examination as a euthanasia provider shall be required to pass a euthanasia provider examination administered by the board and shall be required to complete a training course approved by the board in euthanasia practices.
- D. The board shall adopt rules to provide for interim placements for euthanasia agencies that have no permanent employees who are euthanasia providers.
- E. A person licensed to practice as a euthanasia provider shall:
  - (1) have passed the examination to qualify as a euthanasia provider;

(2) hold a certificate of completion in a training course in euthanasia issued within three years of the date that the euthanasia provider examination is successfully completed;

(3) have attained an age of at least eighteen years;

(4) not be guilty of fraud or deceit in procuring or attempting to procure a license;

(5) pay the required fee to be determined by the board, but not to exceed fifty dollars (\$50.00); and

(6) comply with all other requirements established by the board.

F. The board may issue a license to practice as a euthanasia provider without examination to an applicant who meets the qualifications required for euthanasia providers in this state as set forth in Paragraphs (3) through (6) of Subsection E of this section. The application for a license as a euthanasia provider shall be accompanied by proof of completion of training in euthanasia practices, as approved by the board.

G. A person whose euthanasia provider license expires while the person is on active duty with a branch of the armed forces of the United States, called into service or training with the state militia or in training or education under the supervision of the United States government prior to induction into military service may have the license restored without paying renewal fees, if within two years after the termination of that service, training or education, except under conditions other than honorable, the board is furnished with satisfactory evidence that the person had been engaged in the service, training or education.

## **Chapter 60 Section 7 Laws 2007**

### **Section 7. EUTHANASIA INSTRUCTORS--CERTIFICATION.--**

A. The board shall have authority over the certification of euthanasia instructors.

B. A person certified to practice as a euthanasia instructor shall:

(1) have passed the examination administered by the board to qualify as a euthanasia instructor;

(2) have completed instructor training in euthanasia practices, as defined by the board, within one year preceding the date the application for certification is submitted;

(3) have participated in the euthanasia of animals for a minimum of three years preceding the date of application;

(4) not have been found guilty of fraud or deceit in procuring or attempting to procure any type of certification; and

(5) pay the required fee.

C. The board may certify an applicant as a euthanasia instructor without an examination if the applicant has been certified or licensed under the laws of another state and the applicant meets the qualifications set forth in Paragraphs (3) through (5) of Subsection B of this section. The application for certification shall be accompanied by proof of completion of instructor training in euthanasia practices, as approved by the board.

D. A person whose euthanasia instructor certification expires while on active duty with the armed forces of the United States, called into service or training with the state militia or in training or education under the supervision of the United States government prior to induction into military service may have the certification restored without paying renewal fees, if within two years after the termination of that service, training or education, except under conditions other than honorable, the board is furnished with satisfactory evidence that the person has been engaged in such service, training or education.

## **Chapter 60 Section 8 Laws 2007**

### **Section 8. EUTHANASIA AGENCIES--INSPECTIONS--EXEMPTIONS.--**

A. The board shall have authority over the licensing of euthanasia agencies. All euthanasia agencies shall be licensed by the board prior to euthanasia being performed by that agency.

B. The board shall adopt rules governing the procedures for administering euthanasia.

C. The board shall establish rules for inspecting a facility holding or claiming to hold a license as a euthanasia agency in this state.

D. The board shall establish policies and procedures for record keeping and for securing, using and disposing of euthanasia drugs in accordance with requirements of the Controlled Substances Act, the federal drug enforcement agency Controlled Substances Act and the rules of the board of pharmacy.

E. Euthanasia agencies using controlled substances shall have on staff or under contract a supervising veterinarian and a consulting pharmacist as that position is defined in the Pharmacy Act.

F. A supervising veterinarian is not required to be on the premises of a euthanasia agency when euthanasia is performed.

G. Nothing in the Animal Sheltering Services Act shall be construed as allowing a licensed euthanasia provider or a certified euthanasia instructor to engage in the practice of veterinary medicine when performing the duties set forth in that act.

H. Nothing in the Animal Sheltering Services Act shall be construed as preventing a certified euthanasia instructor from euthanizing animals during a board-approved course on euthanasia instruction.

I. Nothing in the Animal Sheltering Services Act affects wildlife rehabilitators working under the auspices of the department of game and fish.

J. A veterinary clinic serving as a euthanasia agency pursuant to a contract with a local government is exempt from the provisions of the Animal Sheltering Services Act; provided that the veterinary clinic is subject to licensure and rules adopted pursuant to the Veterinary Practice Act.

K. A municipal facility that is a zoological park is exempt from the provisions of the Animal Sheltering Services Act.

## **Chapter 60 Section 9 Laws 2007**

### Section 9. VIOLATIONS.--

A. Unless otherwise provided in the Animal Sheltering Services Act, it is a violation of that act for a person to:

(1) perform euthanasia for a euthanasia agency or an animal shelter in this state without possessing a valid license pursuant to the Animal Sheltering Services Act;

(2) solicit, advertise or offer to perform an act for which licensure or certification is required pursuant to the Animal Sheltering Services Act, unless the person holds a license or certification;

(3) refuse to comply with a cease and desist order issued by the board;

(4) refuse or fail to comply with the provisions of the Animal Sheltering Services Act;

(5) make a material misstatement in an application for licensure or certification;

(6) intentionally make a material misstatement to the department during an official investigation;

(7) impersonate an official or inspector;

(8) refuse or fail to comply with rules adopted by the board or with a lawful order issued by the board;

(9) aid or abet another in violating provisions of the Animal Sheltering Services Act, or a rule adopted by the board;

(10) alter or falsify a certificate of inspection, license or certification issued by the board;

(11) fail to carry out the duties of a euthanasia provider in a professional manner;

(12) abuse the use of a chemical substance or be guilty of habitual or excessive use of intoxicants or drugs;

(13) sell or give chemical substances used in euthanasia procedures to an unlicensed person; and

(14) assist an unlicensed or unauthorized person in euthanizing animals, except during a board-approved course in euthanasia.

B. It is a violation of the Animal Sheltering Services Act for a euthanasia agency or an animal shelter to:

(1) refuse to permit entry or inspection of its facilities by the board or its designees;

(2) sell, offer for sale, barter, exchange or otherwise transfer animals that are prohibited by the department of game and fish, the United States department of agriculture or any other regulatory agency to be kept unless the sale, offer for sale, bartering, exchanging or transferring of the animal is to a facility employing permitted rehabilitators or an individual that is a permitted rehabilitator pursuant to the rules adopted by the department of game and fish or another agency that has authority over people who are permitted to receive and provide care for such animals;

(3) allow a license or certificate issued pursuant to the Animal Sheltering Services Act to be used by an unlicensed or uncertified person; or

(4) make a misrepresentation or false promise through advertisements, employees, agents or other mechanisms in connection with the euthanasia of an animal.

C. It is a violation of the Animal Sheltering Services Act for an employee or official of the board or a person in the department to disclose or use for that person's own advantage information derived from reports or records submitted to the department or the board pursuant to that act.

## **Chapter 60 Section 10 Laws 2007**

### Section 10. ENFORCEMENT AND INJUNCTIONS.--

A. The board or the board's designees shall enforce the provisions of the Animal Sheltering Services Act.

B. Whenever the board has reasonable cause to believe a violation of a provision of the Animal Sheltering Services Act or a rule adopted pursuant to that act has occurred that creates a health risk for the animals or the community and immediate enforcement is deemed necessary, the board may issue a cease and desist order to require a person to cease violations. At any time after service of the order to cease and desist, the person may request a prompt hearing to determine whether a violation occurred. If a person fails to comply with a cease and desist order within twenty-four hours, the board may bring a suit for a temporary restraining order and for injunctive relief to prevent further violations.

C. Whenever the board possesses evidence that indicates a person has engaged in or intends to engage in an act or practice constituting a violation of the Animal Sheltering Services Act or a rule adopted pursuant to that act, the board may seek temporarily or permanently to restrain or enjoin the act or practice. The board shall not be required to post a bond when seeking a temporary or permanent injunction.

## **Chapter 60 Section 11 Laws 2007**

### Section 11. DISCIPLINARY ACTIONS--EUTHANASIA PROVIDERS, EUTHANASIA AGENCIES AND EUTHANASIA INSTRUCTORS--HEARINGS--PENALTIES.--

A. The provisions of the Uniform Licensing Act apply to all disciplinary procedures and hearings of the board.

B. The board may:

(1) deny, suspend, revoke, reprimand, place on probation or take other action against a license or certificate held or applied for pursuant to the Animal Sheltering Services Act, including imposing an administrative penalty, upon a finding by the board that the licensee, certificate holder or applicant has performed acts in violation of the Animal Sheltering Services Act or a rule adopted pursuant to that act; and

(2) impose an administrative penalty on a person who makes a false representation as being a licensed euthanasia provider, a certified euthanasia instructor or a licensed euthanasia agency.

C. The board may issue letters of admonition or deny, suspend, refuse to renew, restrict or revoke a license or certification authorized pursuant to the Animal Sheltering Services Act if the applicant or licensee:

(1) has refused or failed to comply with a provision of the Animal Sheltering Services Act, a rule adopted pursuant to that act or an order of the board;

(2) is guilty of cruelty to animals pursuant to a statute of this state or another state;

(3) has had an equivalent license or certificate denied, revoked or suspended by an authority;

(4) has refused to provide the board with reasonable, complete and accurate information regarding the care or euthanasia of animals when requested by the board; or

(5) has falsified information requested by the board or the board's designee.

D. In a proceeding held pursuant to this section, the board may accept as prima facie evidence of grounds for disciplinary action any disciplinary action taken against a licensee from another jurisdiction, if the violation that prompted the disciplinary action in that jurisdiction would be grounds for disciplinary action pursuant to this section.

E. Disciplinary proceedings may be instituted by the board or by a complaint to the board.

F. The board shall not initiate a disciplinary action more than two years after the date that it receives a complaint or that it begins an investigation without a filed complaint.

G. The board may administer oaths, take statements and compel disclosure by the witnesses of all facts known to them relative to matters under investigation.

H. The board may impose an administrative penalty in an amount not to exceed five hundred dollars (\$500) on a holder of a license or certificate for violations of the Animal Sheltering Services Act.

I. A person or euthanasia agency whose license or certificate is suspended or revoked by the board pursuant to the provisions of this section may, at the discretion of the board, obtain a license or certificate at any time without examination upon written application to the board showing cause to justify reinstatement or renewal of the license or certificate.

J. The board shall adopt other rules pertaining to hearings, appeals and rehearings as it deems necessary.

K. The board shall not be required to certify a record to the court of appeals of a decision of the board until the proper fee has been paid to the board for a copy and certification of the record.

L. A person engaging in acts without a license or certificate issued by the board is guilty of a misdemeanor.

M. A person who practices, offers to practice, attempts to practice or makes any representation as being a euthanasia provider, a euthanasia instructor or a licensed euthanasia agency without holding a license or certificate issued by the board shall, in addition to any other penalty provided in this section or any other law, pay an administrative penalty to the board in an amount not to exceed five hundred dollars (\$500) for each offense.

## **Chapter 60 Section 12 Laws 2007**

Section 12. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.-- The animal sheltering services board is terminated on July 1, 2011 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Animal Sheltering Services Act until July 1, 2012. Effective July 1, 2012, the Animal Sheltering Services Act is repealed.

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Senate Bill 458, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 61**

AN ACT

RELATING TO PUBLIC LANDS; ADDRESSING REFUNDS FOR ERRONEOUS PAYMENTS; PROVIDING FOR LIMITATION OF ACTIONS; MAKING AN APPROPRIATION.

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

## **Chapter 61 Section 1 Laws 2007**

Section 1. Section 19-7-59 NMSA 1978 (being Laws 1931, Chapter 99, Section 1, as amended) is amended to read:

**"19-7-59. REPAYMENT OF MONEY ERRONEOUSLY PAID ON LEASE OR PURCHASE CONTRACT AFTER DISTRIBUTION.--**

A. The duties, responsibilities and activities of the commissioner of public lands and lessees of state trust land and minerals set out in this section shall be performed in a timely manner.

B. Money erroneously paid on account of a lease or sale of state lands, which money is not carried in a suspense fund but has been distributed to the proper income or permanent fund, shall be repaid in the manner prescribed in this section.

C. If the money erroneously paid was for royalty due under a lease, then, subject to a subsequent audit by the commissioner of public lands or the commissioner's agent, the lessee may either request a refund or may recoup the money by deducting an equivalent amount from subsequent royalty payments due for the same lease and any other lease with the same trust beneficiary; provided that if the amount erroneously paid pursuant to this subsection is greater than fifty thousand dollars (\$50,000) for a lease, no deduction from subsequent payments shall be made without the prior approval of the commissioner of public lands; and, provided further that, no initial claim for recoupment shall be made after six years from the date on which the initial royalty obligation became due.

D. If the amount of money erroneously paid is less than ten thousand dollars (\$10,000), then, after a claim for a refund has been filed pursuant to Section 19-7-60 NMSA 1978 and approved by the commissioner of public lands, no court action shall be necessary and a refund shall be made under Section 19-7-62 or 19-7-63 NMSA 1978.

E. All other money erroneously paid shall be refunded pursuant to the provisions of Sections 19-7-60 through 19-7-63 NMSA 1978."

## **Chapter 61 Section 2 Laws 2007**

Section 2. Section 19-7-60 NMSA 1978 (being Laws 1931, Chapter 99, Section 2, as amended) is amended to read:

"19-7-60. CLAIM FOR REFUND--CONTENTS--TIME LIMIT--NOTICE OF ERRONEOUS PAYMENT--LIMITATION OF ACTION.-- A person claiming a refund under the provisions of Sections 19-7-59 through 19-7-63 NMSA 1978 shall file with the commissioner of public lands a written claim for refund, stating the amount claimed to have been erroneously paid and the reasons why such payment was erroneously made. All claims for refund of money shall be filed within ninety days after notice. If an erroneous payment of any money is discovered by the commissioner of public lands, notice of the discovery shall be given by the commissioner of public lands, as soon after the discovery as possible, by registered mail to the last recorded address of the person making the erroneous payment. A claim for a refund that is not filed with the commissioner of public lands within six years from the date the erroneous payment was

made shall be forever barred; provided that if notice of an erroneous payment is given less than ninety days before the end of the six-year limitation, the period of time to file a claim shall be extended beyond the six-year limitation for the number of days necessary to provide ninety days to file the claim."

### **Chapter 61 Section 3 Laws 2007**

Section 3. Section 19-7-62 NMSA 1978 (being Laws 1931, Chapter 99, Section 4, as amended) is amended to read:

"19-7-62. ANNUAL APPROPRIATION FOR REFUNDS--PAYMENT FROM STATE LANDS MAINTENANCE FUND.--There is appropriated annually out of the state lands maintenance fund created by Section 19-1-11 NMSA 1978 the sum of five hundred thousand dollars (\$500,000) or such part thereof as may be necessary for the purpose of making refunds of payments determined in the manner provided by Sections 19-7-59 through 19-7-63 NMSA 1978 to have been erroneously collected; provided, however, that any refund of money paid into any fund other than the state lands maintenance fund shall be made only out of that part of the state lands maintenance fund distributable to the fund into which such payment was erroneously made, under the provisions of Section 19-1-13 NMSA 1978."

### **Chapter 61 Section 4 Laws 2007**

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Finance Committee

Substitute for Senate Bill 470

Approved March 29, 2007

## **LAWS 2007, CHAPTER 62**

AN ACT

RELATING TO MANUFACTURED HOUSING; ENLARGING POWERS AND DUTIES OF THE MANUFACTURED HOUSING DIVISION OF THE REGULATION AND LICENSING DEPARTMENT; PROVIDING PENALTIES; AMENDING SECTIONS OF THE NMSA 1978.

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

## Chapter 62 Section 1 Laws 2007

Section 1. Section 60-14-4 NMSA 1978 (being Laws 1978, Chapter 80, Section 1, as amended) is amended to read:

"60-14-4. POWERS AND DUTIES OF DIVISION.--The division shall:

A. prepare, administer and grade examinations for licensure under the classification sought by each applicant;

B. issue licenses and certificates of qualification in accordance with the provisions of the Manufactured Housing Act;

C. establish and collect fees authorized to be collected by the division pursuant to the Manufactured Housing Act;

D. subject to the approval of the committee, adopt rules and regulations relating to the construction, repair, modification, installation, tie-down, hookup and sale of all manufactured homes, which regulations shall be uniform throughout the state and shall be enforced by inspectors for the division to insure minimum standards of safety within the state and any of its political subdivisions. Ordinances of any political subdivision of New Mexico relating to gas, including natural gas, liquefied petroleum gas or synthetic natural gas; electricity; sanitary plumbing; and installation or sale of manufactured homes shall not be inconsistent with any rules, regulations, codes or standards adopted by the division pursuant to the Manufactured Housing Act;

E. adopt a budget and submit it to the regulation and licensing department for approval;

F. make an annual report to the superintendent of regulation and licensing concerning the operations of the division. The report shall contain the division's recommendations for legislation that it deems necessary to improve the licensing and the ethical and technical practices of the manufactured housing industry and to protect the public welfare;

G. subject to the approval of the committee, adopt such rules, regulations, codes and standards as are necessary to carry out the provisions of the Manufactured Housing Act;

H. prepare a uniform manufacturer's warranty and require its adoption as a condition of licensure by all manufacturers of manufactured homes doing business in New Mexico;

I. subject to the approval of the committee, adopt by regulation the mobile home construction and safety standards contained in the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended;

J. subject to the approval of the committee, adopt by regulation the mobile home procedural and enforcement regulations, 24 C.F.R. 3282, as amended, promulgated by the department of housing and urban development pursuant to the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended;

K. issue permits and provide for a single inspection of every installation in New Mexico, regardless of the location;

L. subject to the approval of the committee, adopt regulations prescribing standards for the installation or use of electrical wiring; the installation of all fixtures, plumbing, consumer's gas pipe, including natural gas, liquefied petroleum gas and synthetic natural gas, appliances and materials installed in the course of mechanical installation; and the construction, alteration, installation and repair of all manufactured homes intended for use in flood or mudslide areas designated pursuant to Section 3-18-7 NMSA 1978. The regulations shall give due regard to standards prescribed by the federal insurance administration pursuant to regulation 1910, Subsection 7(d), 79 Stat. 670, Section 1361, 82 Stat. 587 and 82 Stat. 5757, all as amended, and shall give due regard to physical, climatic and other conditions peculiar to New Mexico;

M. conduct "inspector schools" so that each inspector under the division's jurisdiction is capable of giving a complete one-time inspection for the sufficiency of unit installation, construction and mechanical and electrical systems;

N. enter into cooperative agreements with federal agencies relating to manufactured housing and accept and use federal grants, matching funds or other financial assistance to further the purposes of the Manufactured Housing Act. The division may enter into agreements with municipalities and counties to provide for the inspection of manufactured homes by employees of municipalities and counties, to be performed under the supervision and control of the division. The division may allow all or a portion of the inspection fee collected by a local public body to be retained by the local public body. The portion of the fee retained shall be determined by the division and shall be related to the completeness of the inspection performed;

O. administer oaths through any member of the division, the director or a hearing officer;

P. subject to the approval of the committee, adopt rules and regulations for the conducting of hearings and the presentation of views, consistent with the regulations promulgated by the department of housing and urban development, 24 C.F.R. 3282.151 through 3282.156, as amended;

Q. subject to the approval of the committee, adopt by regulation a requirement that dealers, repairmen and installers provide to consumers warranties on their product and work and prescribe by regulation minimum requirements of such warranties;

R. coordinate with and qualify inspectors for any multiple inspection program provided by the construction industries division of the regulation and licensing department for inspection of manufactured homes;

S. subject to the approval of the committee, adopt regulations, codes and standards for manufactured homes used for nonresidential purposes; provided such manufactured homes being used for nonresidential purposes on May 18, 1988 shall not be required to meet Uniform Building Code standards, except as to requirements for access to the handicapped, but manufactured homes being used for nonresidential purposes after May 18, 1988 shall be required to meet Uniform Building Code standards. None of the provisions contained in this subsection shall apply to retailers licensed by the motor vehicle division of the taxation and revenue department; and

T. with the approval of the superintendent of regulation and licensing, employ such personnel as the director deems necessary for the exclusive purposes of investigating violations of the Manufactured Housing Act, enforcing Section 60-14-17 NMSA 1978 and instituting legal action in the name of the division to enforce the provisions of Section 60-14-19 NMSA 1978."

## **Chapter 62 Section 2 Laws 2007**

Section 2. Section 60-14-19 NMSA 1978 (being Laws 1983, Chapter 295, Section 24) is amended to read:

"60-14-19. PENALTIES.--

A. Any person who knowingly and willfully violates a provision of the Manufactured Housing Act or any rule, regulation or administrative order of the committee or division in a manner that threatens the health or safety of any purchaser or consumer is guilty of a misdemeanor and on conviction shall be fined not more than one thousand dollars (\$1,000) or shall be confined in the county jail not longer than one year or both.

B. In any action brought to enforce any provision of the Manufactured Housing Act, the division, upon petition to the court, may recover on behalf of the state a civil penalty not to exceed one thousand dollars (\$1,000) for each violation, except that the maximum civil penalty may not exceed one million dollars (\$1,000,000) for any related series of violations occurring within one year from the date of the first violation.

C. Failure by a manufacturer or dealer to comply with the warranty provisions of the Manufactured Housing Act or any implied warranties or the violation of any provision of the Manufactured Housing Act by any person is an unfair or deceptive trade practice in addition to those practices defined in the Unfair Practices Act and is actionable pursuant to the Unfair Practices Act. As such, the venue provisions and all remedies available in the Unfair Practices Act apply to and are in addition to the remedies in the Manufactured Housing Act.

D. The director may issue a license to an applicant who at any time within one year prior to making an application has acted as an unlicensed dealer, broker, salesperson, repairman, manufacturer or installer in New Mexico without a license as required by the division if:

(1) the applicant in addition to all other requirements for licensure pays an additional fee as follows:

(a) in an amount up to ten percent of the contract price or the value of the unlicensed work in the discretion of the committee; or

(b) if the applicant has bid or offered a price on a project and was not the successful bidder or offeror, the fee shall be at least one percent but not more than five percent of the total bid amount in the discretion of the committee; and

(2) the director is satisfied that no incident of unlicensed work:

(a) caused monetary damage to any person; or

(b) resulted in an unresolved consumer complaint being filed against the applicant.

E. Any unlicensed person who has performed unlicensed work may settle the claims against that unlicensed person without becoming licensed if the administrative claims arise from that person's first offense and that person pays an administrative fee calculated pursuant to Paragraph (1) of Subsection D of this section. In addition to the administrative fee, an additional ten percent of the amount of the administrative fee shall be assessed as a service fee.

F. If the total fee to be paid by the unlicensed person pursuant to the provisions of Subsection D or E of this section is twenty-five dollars (\$25.00) or less, the fee may be waived by the director."

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Senate Bill 497, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 63**

AN ACT

RELATING TO HEALTH; AUTHORIZING A DENTAL HYGIENIST TO ADMINISTER FLUORIDE TREATMENTS WITHOUT THE SUPERVISION OF A DENTIST.

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

## **Chapter 63 Section 1 Laws 2007**

Section 1. Section 61-5A-1 NMSA 1978 (being Laws 1994, Chapter 55, Section 1) is amended to read:

"61-5A-1. SHORT TITLE.--Chapter 61, Article 5A NMSA 1978 may be cited as the "Dental Health Care Act"."

## **Chapter 63 Section 2 Laws 2007**

Section 2. Section 61-5A-4 NMSA 1978 (being Laws 1994, Chapter 55, Section 4, as amended) is amended to read:

"61-5A-4. SCOPE OF PRACTICE.--

A. As used in the Dental Health Care Act, "practice of dentistry" means:

(1) the diagnosis, treatment, correction, change, relief, prevention, prescription of remedy, surgical operation and adjunctive treatment for any disease, pain, deformity, deficiency, injury, defect, lesion or physical condition involving both the functional and aesthetic aspects of the teeth, gingivae, jaws and adjacent hard and soft tissue of the oral and maxillofacial regions, including the prescription or administration of any drug, medicine, biologic, apparatus, brace, anesthetic or other therapeutic or diagnostic substance or technique by an individual or the individual's agent or employee gratuitously or for any fee, reward, emolument or any other form of compensation whether direct or indirect;

(2) representation of an ability or willingness to do any act mentioned in Paragraph (1) of this subsection;

(3) the review of dental insurance claims for therapeutic appropriateness of treatment, including but not limited to the interpretation of radiographs, photographs, models, periodontal records and narratives;

(4) the offering of advice or authoritative comment regarding the appropriateness of dental therapies, the need for recommended treatment or the efficacy of specific treatment modalities for other than the purpose of consultation to another dentist; or

(5) with specific reference to the teeth, gingivae, jaws or adjacent hard or soft tissues of the oral and maxillofacial region in living persons, to propose, agree or attempt to do or make an examination or give an estimate of cost with intent to, or undertaking to:

(a) perform a physical evaluation of a patient in an office or in a hospital, clinic or other medical or dental facility prior to, incident to and appropriate to the performance of any dental services or oral or maxillofacial surgery;

(b) perform surgery, an extraction or any other operation or to administer an anesthetic in connection therewith;

(c) diagnose or treat a condition, disease, pain, deformity, deficiency, injury, lesion or other physical condition;

(d) correct a malposition;

(e) treat a fracture;

(f) remove calcareous deposits;

(g) replace missing anatomy with an artificial substitute;

(h) construct, make, furnish, supply, reproduce, alter or repair an artificial substitute or restorative or corrective appliance or place an artificial substitute or restorative or corrective appliance in the mouth or attempt to adjust it;

(i) give interpretations or readings of dental radiographs; or

(j) do any other remedial, corrective or restorative work.

B. As used in the Dental Health Care Act, "the practice of dental hygiene" means the application of the science of the prevention and treatment of oral disease through the provision of educational, assessment, preventive, clinical and other therapeutic services under the general supervision of a dentist. "Dental hygiene" includes:

(1) prophylaxis, which is the treatment of human teeth by removing from their surface calcareous deposits and stain, removing accumulated accretions and polishing the surfaces of the teeth;

(2) removing diseased crevicular tissue;

(3) the application of pit and fissure sealants without mechanical alteration of the tooth, fluorides and other topical therapeutic and preventive agents;

(4) exposing and referring to oral radiographs;

(5) screening to identify indications of oral abnormalities;

(6) assessment of periodontal conditions; and

(7) such other closely related services as permitted by the rules of the committee and the board.

C. In addition to performing dental hygiene as defined in Subsection B of this section, a dental hygienist may apply preventive topical fluorides and remineralization agents without supervision in public and community medical facilities, schools, hospitals, long-term care facilities and such other settings as the committee may determine by rule ratified by the board, so long as the dental hygienist's license is not restricted pursuant to the Impaired Dentists and Dental Hygienists Act.

D. In addition to performing dental hygiene as defined in Subsection B of this section, dental hygienists who have met the criteria as the committee shall establish and the board ratify may administer local anesthesia under indirect supervision of a dentist.

E. A New Mexico licensed dental hygienist may be certified for collaborative dental hygiene practice in accordance with the educational and experience criteria established collaboratively by the committee and the board.

F. For the purpose of this section, "collaborative dental hygiene practice" means the application of the science of the prevention and treatment of oral disease through the provision of educational, assessment, preventive, clinical and other therapeutic services as specified in Subsection B of this section in a cooperative working relationship with a consulting dentist, but without general supervision as set forth by the rules established and approved by both the board and the committee."

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Senate Bill 805

Approved March 29, 2007

## **LAWS 2007, CHAPTER 64**

### **AN ACT**

RELATING TO STATE BUILDINGS; EXPANDING THE PLANNING AUTHORITY OF THE CAPITOL BUILDINGS PLANNING COMMISSION; CHANGING THE MEMBERSHIP OF THE COMMISSION; AUTHORIZING AN ADDITIONAL AMOUNT OF STATE OFFICE BUILDING TAX REVENUE BONDS; INCREASING THE AMOUNT OF A CERTAIN TAX DISTRIBUTION; MAKING APPROPRIATIONS FOR MASTER PLANNING AND THE PLANNING AND DESIGN OF CERTAIN STATE FACILITIES AND THE ACQUISITION OF CERTAIN PROPERTY; AUTHORIZING SEVERANCE TAX BONDS FOR COMPLETING THE STATE LABORATORY FACILITY; DECLARING AN EMERGENCY.

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

## **Chapter 64 Section 1 Laws 2007**

Section 1. Section 15-10-1 NMSA 1978 (being Laws 1997, Chapter 178, Section 5, as amended) is amended to read:

"15-10-1. CAPITOL BUILDINGS PLANNING COMMISSION CREATED.--

A. The "capitol buildings planning commission" is created to study and plan for the long-range facilities needs of state government in the greater metropolitan areas of Las Cruces, Santa Fe and Albuquerque. The commission shall review prior long-range facilities needs assessments and develop an initial master plan for the state facilities in the greater metropolitan areas of Las Cruces, Santa Fe and Albuquerque. After development of the initial master plan, the commission shall conduct a review of state properties throughout the state for the development of an overall master plan.

B. The commission shall be composed of four members of the legislature, two from each house, appointed by the New Mexico legislative council, the secretary of general services, the state treasurer, the secretary of transportation or the secretary's designee, the secretary of cultural affairs or the secretary's designee, the secretary of finance and administration or the secretary's designee, the commissioner of public lands or the commissioner's designee and the chair of the supreme court building commission or the chair's designee.

C. The legislative council service shall provide staff for the commission in coordination with the staff architect and other staff of the property control division of the general services department.

D. The commission shall meet regularly and shall report annually to the legislature on an annual update of the master plan for the long-range facilities needs of state government in the greater metropolitan areas of Las Cruces, Santa Fe and Albuquerque and throughout the state."

## **Chapter 64 Section 2 Laws 2007**

Section 2. Section 7-1-6.42 NMSA 1978 (being Laws 2001, Chapter 199, Section 12, as amended) is amended to read:

"7-1-6.42. DISTRIBUTION--STATE BUILDING BONDING FUND--GROSS RECEIPTS TAX.-- A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state building bonding fund in the amount of five hundred thirty thousand dollars (\$530,000) from the net receipts attributable to the gross receipts tax imposed by the Gross Receipts and Compensating Tax Act. The distribution shall be made:

A. after the required distribution pursuant to Section 7-1-6.4 NMSA 1978;

B. contemporaneously with other distributions of net receipts attributable to the gross receipts tax for payment of debt service on outstanding bonds or to a fund dedicated for that purpose; and

C. prior to any other distribution of net receipts attributable to the gross receipts tax."

## **Chapter 64 Section 3 Laws 2007**

Section 3. Laws 2001, Chapter 166, Section 1, as amended by Laws 2004, Chapter 123, Section 6 and by Laws 2005, Chapter 320, Section 1, is amended to read:

"Section 1. AUTHORIZATION TO ACQUIRE PROPERTY-- APPROPRIATION.--

A. In order to acquire the following properties for use as state agency offices in Santa Fe county, the property control division of the general services department may:

(1) purchase and renovate, equip and furnish the national education association building on South Capitol street;

(2) plan, design, construct, equip and furnish a new office building with integrated parking at the west capitol complex on Cerrillos road, pursuant to the design funded by Subsection I of Section 14 of Chapter 118 of Laws 1998, at a price not to exceed twenty-five million dollars (\$25,000,000);

(3) purchase and renovate, equip and furnish the public employees retirement association building on Paseo de Peralta; and

(4) purchase land within or in close proximity to the public safety campus as set out in the capitol buildings master plan developed by the capitol buildings planning commission; provided that no land shall be purchased pursuant to this paragraph that does not have, in place, water, sewer, electricity and other necessary infrastructure.

B. In addition to the acquisitions authorized in Subsection A of this section, the property control division of the general services department may:

(1) in cooperation with the New Mexico legislative council, pursuant to the capitol buildings master plan developed by the capitol buildings planning commission and after review by the commission plan, design, construct and equip a parking structure in the central capitol campus in Santa Fe. Upon completion of the parking structure, the property control division shall transfer the parking structure and associated real estate to the New Mexico legislative council. After the transfer, the legislative council shall operate and maintain the parking structure;

(2) expend net proceeds from state office building tax revenue bonds to acquire land and plan, design, construct and equip a state laboratory facility in Bernalillo county; and

(3) pursuant to the capitol buildings master plan, acquire the property within the central capitol campus in Santa Fe known as the "Coughlin building".

C. The acquisitions of property pursuant to Subsection A of this section shall be made in the priority order listed in that subsection. Purchases authorized in Paragraphs (1), (2) and (4) of Subsection A of this section shall be made at a price not to exceed the value of the property established by the taxation and revenue department using generally accepted appraisal techniques for the type of property purchased. The purchase authorized in Paragraph (3) of Subsection A of this section shall be made at a price negotiated with the retirement board of the public employees retirement association that is not less than the fair market value of the property and building."

## **Chapter 64 Section 4 Laws 2007**

Section 4. Laws 2001, Chapter 166, Section 2, as amended by Laws 2004, Chapter 123, Section 7 and by Laws 2005, Chapter 320, Section 4, is amended to read:

"Section 2. STATE OFFICE BUILDING TAX REVENUE BONDS--  
AUTHORIZATION--CONTINGENCY.--

A. The New Mexico finance authority may issue and sell state office building tax revenue bonds in compliance with the State Building Bonding Act when the director of the property control division of the general services department certifies to the authority that the proceeds from the state office building tax revenue bonds are needed for one or more of the purposes specified in Laws 2001, Chapter 166, Section 1, as amended by Section 3 of this 2007 act; provided that the total amount of state office building tax revenue bonds outstanding at any one time shall not exceed one hundred million dollars (\$100,000,000). The authority shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible. Except as provided in Subsections B and C of this section, net proceeds from the sale of the bonds are appropriated to the property control division of the general services department for expenditure in fiscal year 2001 and subsequent fiscal years for the purposes specified in Laws 2001, Chapter 166, Section 1, as amended by Section 3 of this 2007 act.

B. Two hundred fifty thousand dollars (\$250,000) of the proceeds from the bonds issued pursuant to Subsection A of this section are appropriated to the legislative council service for expenditure in fiscal years 2004 through 2008 for the purpose of providing funding for the capitol buildings planning commission, master planning process for state facilities and for annual updates to master plans, but excluding any payments for salaries, benefits and costs of state employees. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the state building bonding fund.

C. Three hundred fifty thousand dollars (\$350,000) of the proceeds from the bonds issued pursuant to Subsection A of this section are appropriated to the legislative council service for expenditure in fiscal years 2007 through 2009 for the purpose of providing funding for the capitol buildings planning commission, master planning process for state facilities and annual updates to master plans, but excluding any payments for salaries, benefits and costs of state employees. Any unexpended or unencumbered balance remaining at the end of fiscal year 2009 shall revert to the state building bonding fund."

## **Chapter 64 Section 5 Laws 2007**

Section 5. SEVERANCE TAX BONDS--STATE LABORATORY FACILITY.--The state board of finance may issue and sell severance tax bonds in compliance with the Severance Tax Bonding Act in an amount not exceeding eleven million dollars (\$11,000,000) when the property control division of the general services department certifies the need for the issuance of the bonds. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible upon a finding by the board that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. The state board of finance shall further take the appropriate steps necessary to comply with the Internal Revenue Code of 1986, as amended. The proceeds from the sale of the bonds are appropriated to the property control division of the general services department for the purpose of acquiring land and planning, designing, constructing and equipping the state laboratory facility in Bernalillo county. Any unexpended or unencumbered balance remaining at the end of fiscal year 2012 shall revert to the severance tax bonding fund. If the property control division of the general services department has not certified the need for the issuance of the bonds by the end of fiscal year 2009, the authorization provided in this section shall expire.

## **Chapter 64 Section 6 Laws 2007**

### Section 6. APPROPRIATIONS.--

A. The following amounts from the following sources are appropriated to the property control division of the general services department for expenditure in fiscal years 2007 through 2009 for the acquisition of the property within the west capitol complex owned by the United States general services administration and the United States forest service. Any unexpended or unencumbered balance remaining at the end of fiscal year 2009 shall revert proportionately to the originating fund:

(1) one million five hundred thousand dollars (\$1,500,000) from the property control reserve fund; and

(2) three million five hundred thousand dollars (\$3,500,000) from the public buildings repair fund.

B. One million dollars (\$1,000,000) is appropriated from the general fund to the property control division of the general services department for expenditure in fiscal years 2007 through 2009 for the planning and designing of a New Mexico state police crime laboratory to be located adjacent to or within close proximity to the state laboratory facility in Bernalillo county. Any unexpended or unencumbered balance remaining at the end of fiscal year 2009 shall revert to the general fund.

## **Chapter 64 Section 7 Laws 2007**

Section 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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Senate Finance Committee Substitute for

Senate Bill 1061, as amended

with emergency clause

Approved March 29, 2007

## **LAWS 2007, CHAPTER 65**

AN ACT

RELATING TO CHILDREN; REQUIRING FINGERPRINTING AND A BACKGROUND CHECK FOR A VOLUNTEER OR STAFF MEMBER AT A JUVENILE JUSTICE FACILITY.

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

## **Chapter 65 Section 1 Laws 2007**

Section 1. Section 9-2A-1 NMSA 1978 (being Laws 1992, Chapter 57, Section 1) is amended to read:

"9-2A-1. SHORT TITLE.-- Chapter 9, Article 2A NMSA 1978 may be cited as the "Children, Youth and Families Department Act"."

## **Chapter 65 Section 2 Laws 2007**

Section 2. A new section of the Children, Youth and Families Department Act is enacted to read:

"VOLUNTEERS AND STAFF AT JUVENILE FACILITIES.--Fingerprinting and a background check shall be required for a volunteer or staff member at a juvenile justice facility who has direct unsupervised contact with residents."

### **Chapter 65 Section 3 Laws 2007**

Section 3. Section 9-2A-8.1 NMSA 1978 (being Laws 2005, Chapter 271, Section 2) is amended to read:

"9-2A-8.1. CRIMINAL HISTORY RECORD INVESTIGATIONS--PROCEDURE--CONFIDENTIALITY--VIOLATION--PENALTY.--

A. The department shall submit fingerprints for each individual required to be fingerprinted pursuant to the Children, Youth and Families Department Act to the department of public safety and the federal bureau of investigation.

B. Criminal histories obtained are confidential and shall be used only for the purpose of determining the suitability of an employee or volunteer or prospective employee or volunteer for employment or service by the department; except that criminal histories may be released or disclosed to another agency or person only upon court order or with the written consent of the person who is the subject of the criminal history record.

C. A person who releases or discloses criminal history records or information contained in those records in violation of the provisions of this section is guilty of a misdemeanor and if convicted shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978."

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Senate Bill 471, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 66**

AN ACT

RELATING TO CHILD SAFETY; ENACTING THE CHILD HELMET SAFETY ACT;  
PROVIDING CIVIL PENALTIES.

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

### **Chapter 66 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "Child Helmet Safety Act".

## **Chapter 66 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the Child Helmet Safety Act:

A. "bicycle" means a human-powered vehicle with two wheels in tandem designed to transport, by the act of pedaling, one or more persons seated on one or more saddle seats on its frame and includes a human-powered vehicle designed to transport by the act of pedaling, which has more than two wheels when the vehicle is used on a public roadway, public bicycle path or other public road or right of way, including a tricycle;

B. "minor" means a person under eighteen years of age;

C. "operator" means a person under eighteen years of age who travels on a bicycle seated on a saddle seat from which that person is intended to and can pedal the bicycle, or who propels himself by way of using inline skates, roller skates, a skateboard or a scooter;

D. "passenger" means a person under eighteen years of age who travels on a bicycle or scooter in any manner except as an operator;

E. "protective helmet" means a piece of headgear that meets or exceeds the impact standard for protective helmets set by the United States consumer product safety commission federal safety standard and those standards developed by the American national standards institute, the Snell memorial foundation or the American society for testing and materials;

F. "public bicycle path" means a right of way under the jurisdiction and control of the state or a local political subdivision for use primarily by bicyclists and pedestrians;

G. "public roadway" means a right of way under the jurisdiction and control of the state or a local political subdivision for use primarily by motor vehicular traffic;

H. "public skateboard park" means an area of public property set aside, designed and maintained for recreation by persons using bicycles, scooters, skateboards or skates;

I. "scooter" means a wheeled vehicle, regardless of the number or placement of those wheels, that has handlebars, designed to be stood on by the operator or passenger and used to glide or propel the operator or passenger over the ground;

J. "skateboard" means a set of wheels attached to a platform or flat surface, regardless of the number or placement of those wheels, and used to glide or propel the operator over the ground; and

K. "skates" means a pair of devices worn on the feet with a set of wheels attached and used to glide or propel the user over the ground and may be either inline or roller, but "skates" does not include a pair of devices, similar to a pair of common shoes, that has one or more wheels embedded in the sole of each device.

## **Chapter 66 Section 3 Laws 2007**

### Section 3. HELMET USE REQUIREMENTS--CIVIL PENALTY.--

A. It is unlawful for a parent or legal guardian of a minor to knowingly permit that minor to operate or be a passenger on a bicycle, skates, scooter or skateboard unless that minor wears a well-fitted protective bicycle helmet, fastened securely upon the head with the straps of the helmet.

B. Except as provided in Subsection C of this section, a parent or legal guardian found guilty of violating Subsection A of this section shall pay a civil penalty of not more than ten dollars (\$10.00). Magistrate and municipal courts shall have concurrent jurisdiction.

C. If a violation of Subsection A of this section is a first offense, the magistrate or municipal court may issue a verbal warning or require, in lieu of the fine imposed in Subsection B of this section, that the person found in violation provide proof that a protective helmet has been purchased for use by the minor found on the bicycle, skates, scooter or skateboard without a protective helmet.

D. A municipal court may issue only a verbal warning for a first or later violation.

## **Chapter 66 Section 4 Laws 2007**

Section 4. EQUIPMENT SALES OR RENTALS.--A person engaged in the business of renting bicycles, skates, scooters or skateboards shall provide a protective helmet to a minor who will be an operator of or passenger on a rented bicycle, skates, scooter or skateboard if the minor does not already have a helmet in the minor's possession. A reasonable fee may be charged for the protective helmet rental.

## **Chapter 66 Section 5 Laws 2007**

Section 5. NEGLIGENCE.--Failure to wear a protective helmet shall not limit or apportion damages.

## **Chapter 66 Section 6 Laws 2007**

Section 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 397, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 67**

### **AN ACT**

RELATING TO SEXUAL OFFENSES; CREATING A NEW CRIMINAL OFFENSE KNOWN AS CRIMINAL SEXUAL COMMUNICATION WITH A CHILD; PROVIDING PENALTIES.

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

### **Chapter 67 Section 1 Laws 2007**

Section 1. A new section of the Criminal Code is enacted to read:

"CRIMINAL SEXUAL COMMUNICATION WITH A CHILD--PENALTY.--

A. Criminal sexual communication with a child consists of a person knowingly and intentionally communicating directly with a specific child under sixteen years of age by sending the child obscene images of the person's intimate parts by means of an electronic communication device when the perpetrator is at least four years older than the child.

B. Whoever commits sexual communication with a child is guilty of a fourth degree felony.

C. As used in this section:

(1) "electronic communication device" means a computer, video recorder, digital camera, fax machine, telephone, pager or any other device that can produce an electronically generated image; and

(2) "intimate parts" means the primary genital area, groin, buttocks, anus or breast."

### **Chapter 67 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 1106, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 68**

### **AN ACT**

RELATING TO SEX OFFENDERS; CREATING A NEW CRIMINAL OFFENSE KNOWN AS CHILD SOLICITATION BY ELECTRONIC COMMUNICATION DEVICE; ADDING THE OFFENSE OF CHILD SOLICITATION BY ELECTRONIC COMMUNICATION DEVICE TO SEX OFFENDER REGISTRATION REQUIREMENTS; PROVIDING AN EXTENDED PERIOD OF PAROLE FOR THE OFFENSE OF CHILD SOLICITATION BY ELECTRONIC COMMUNICATION DEVICE.

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

### **Chapter 68 Section 1 Laws 2007**

Section 1. Section 29-11A-3 NMSA 1978 (being Laws 1995, Chapter 106, Section 3, as amended) is amended to read:

"29-11A-3. DEFINITIONS.--As used in the Sex Offender Registration and Notification Act:

A. "conviction" means a conviction in any court of competent jurisdiction and includes a deferred sentence, but does not include a conditional discharge;

B. "institution of higher education" means a:

- (1) private or public post-secondary educational institution;
- (2) trade school; or
- (3) professional school;

C. "registration requirement" means any requirement set forth in Section 29-11A-4 NMSA 1978 that requires a sex offender to register, provide information, including a DNA sample, renew, revise or change registration information or provide written notice or disclosure regarding the sex offender's status as a sex offender;

D. "sex offender" means a person who:

(1) is a resident of New Mexico who is convicted of a sex offense in New Mexico;

(2) changes residence to New Mexico, when that person has been convicted of a sex offense in another state pursuant to state, federal, tribal or military law;

(3) is a resident of New Mexico who is convicted of a sex offense pursuant to federal, tribal or military law;

(4) does not have an established residence in New Mexico, but lives in a shelter, halfway house or transitional living facility or stays in multiple locations in New Mexico and who has been convicted of a sex offense in New Mexico or any other state pursuant to state, federal, tribal or military law; or

(5) is a resident of another state and who has been convicted of a sex offense pursuant to state, federal, tribal or military law, but who is:

(a) employed full time or part time in New Mexico for a period of time exceeding fourteen days or for an aggregate period of time exceeding thirty days during any calendar year, including any employment or vocation, whether financially compensated, volunteered or for the purpose of government or educational benefit; or

(b) enrolled on a full-time or part-time basis in a private or public school or an institution of higher education in New Mexico; and

E. "sex offense" means:

(1) criminal sexual penetration in the first, second, third or fourth degree, as provided in Section 30-9-11 NMSA 1978;

(2) criminal sexual contact in the fourth degree, as provided in Section 30-9-12 NMSA 1978;

(3) criminal sexual contact of a minor in the second, third or fourth degree, as provided in Section 30-9-13 NMSA 1978;

(4) sexual exploitation of children, as provided in Section 30-6A-3 NMSA 1978;

(5) sexual exploitation of children by prostitution, as provided in Section 30-6A-4 NMSA 1978;

(6) kidnapping, as provided in Section 30-4-1 NMSA 1978, when the victim is less than eighteen years of age and the offender is not a parent of the victim;

(7) false imprisonment, as provided in Section 30-4-3 NMSA 1978, when the victim is less than eighteen years of age and the offender is not a parent of the victim;

(8) aggravated indecent exposure, as provided in Section 30-9-14.3 NMSA 1978;

(9) enticement of child, as provided in Section 30-9-1 NMSA 1978;

(10) incest, as provided in Section 30-10-3 NMSA 1978, when the victim is less than eighteen years of age;

(11) child solicitation by electronic communication device, as provided in Section 30-37-3.2 NMSA 1978;

(12) solicitation to commit criminal sexual contact of a minor in the second, third or fourth degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

(13) attempt to commit any of the sex offenses set forth in Paragraphs (1) through (11) of this subsection, as provided in Section 30-28-1 NMSA 1978."

## **Chapter 68 Section 2 Laws 2007**

Section 2. Section 29-11A-5 NMSA 1978 (being Laws 1995, Chapter 106, Section 5, as amended) is amended to read:

"29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

A. A county sheriff shall maintain a local registry of sex offenders in the sheriff's jurisdiction required to register pursuant to the provisions of the Sex Offender Registration and Notification Act.

B. The county sheriff shall forward:

(1) registration information obtained from sex offenders to the department of public safety. The initial registration information and any new registration information subsequently obtained from a sex offender shall be forwarded by the county sheriff no later than ten working days after the information is obtained from a sex offender. If the department of public safety receives information regarding a sex offender from a governmental entity other than a county sheriff, the department shall send that information to the sheriff for the county in which the sex offender resides; and

(2) samples of DNA obtained from sex offenders to the administrative center for the sex offender DNA identification system pursuant to the provisions of the DNA Identification Act.

C. The department of public safety shall maintain a central registry of sex offenders required to register pursuant to the provisions of the Sex Offender Registration and Notification Act. The department shall participate in the national sex offender registry administered by the United States department of justice. The department shall send conviction information and fingerprints for all sex offenders registered in New Mexico to the national sex offender registry administered by the United States department of justice and to the federal bureau of investigation.

D. The department of public safety shall retain registration information regarding a sex offender convicted for any of the following sex offenses for the entirety of the sex offender's natural life:

(1) criminal sexual penetration in the first, second or third degree, as provided in Section 30-9-11 NMSA 1978;

(2) criminal sexual contact of a minor in the second, third or fourth degree, as provided in Section 30-9-13 NMSA 1978;

(3) sexual exploitation of children, as provided in Section 30-6A-3 NMSA 1978;

(4) kidnapping, as provided in Section 30-4-1 NMSA 1978, when the victim is less than eighteen years of age and the offender is not a parent of the victim;

(5) criminal sexual contact in the fourth degree, as provided in Section 30-9-12 NMSA 1978; or

(6) attempt to commit any of the sex offenses set forth in Paragraphs (1) through (5) of this subsection, as provided in Section 30-28-1 NMSA 1978.

E. The department of public safety shall retain registration information regarding a sex offender convicted for the following offenses for a period of ten years following the sex offender's conviction, release from prison or release from probation or parole, whichever occurs later:

(1) criminal sexual penetration in the fourth degree, as provided in Section 30-9-11 NMSA 1978;

(2) sexual exploitation of children by prostitution, as provided in Section 30-6A-4 NMSA 1978;

(3) false imprisonment, as provided in Section 30-4-3 NMSA 1978, when the victim is less than eighteen years of age and the offender is not a parent of the victim;

(4) aggravated indecent exposure, as provided in Section 30-9-14.3 NMSA 1978;

(5) enticement of child, as provided in Section 30-9-1 NMSA 1978;

(6) incest, as provided in Section 30-10-3 NMSA 1978, when the victim is less than eighteen years of age;

(7) solicitation to commit criminal sexual contact of a minor in the second, third or fourth degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978;

(8) child solicitation by electronic communication device, as provided in Section 30-37-3.2 NMSA 1978; or

(9) attempt to commit any of the sex offenses set forth in Paragraphs (1) through (6) of this subsection, as provided in Section 30-28-1 NMSA 1978.

F. Notwithstanding the provisions of Subsection E of this section, if a sex offender is convicted a second or subsequent time for a sex offense set forth in that subsection, the department of public safety shall retain information regarding the sex offender for the entirety of the sex offender's natural life.

G. The department of public safety shall adopt rules necessary to carry out the provisions of the Sex Offender Registration and Notification Act. Rules necessary for the collection of DNA samples and the administration and operation of the sex offender DNA identification system shall be adopted by the DNA identification system oversight committee pursuant to the provisions of the DNA Identification Act."

## **Chapter 68 Section 3 Laws 2007**

Section 3. Section 30-37-3.2 NMSA 1978 (being Laws 1998, Chapter 64, Section 1, as amended) is amended to read:

"30-37-3.2. CHILD SOLICITATION BY ELECTRONIC COMMUNICATION DEVICE.--

A. Child solicitation by electronic communication device consists of a person knowingly and intentionally soliciting a child under sixteen years of age, by means of an electronic communication device, to engage in sexual intercourse, sexual contact or in a sexual or obscene performance, or to engage in any other sexual conduct when the perpetrator is at least four years older than the child.

B. Whoever commits child solicitation by electronic communication device is guilty of a:

(1) fourth degree felony if the child is at least thirteen but under sixteen years of age; or

(2) third degree felony if the child is under thirteen years of age.

C. Whoever commits child solicitation by electronic communication device and also appears for, attends or is present at a meeting that the person arranged pursuant to the solicitation is guilty of a:

(1) third degree felony if the child is at least thirteen but under sixteen years of age; or

(2) second degree felony if the child is under thirteen years of age.

D. In a prosecution for child solicitation by electronic communication device, it is not a defense that the intended victim of the defendant was a peace officer posing as a child under sixteen years of age.

E. For purposes of determining jurisdiction, child solicitation by electronic communication device is committed in this state if an electronic communication device transmission either originates or is received in this state.

F. As used in this section, "electronic communication device" means a computer, video recorder, digital camera, fax machine, telephone, cellular telephone, pager, audio equipment or any other device that can produce an electronically generated image, message or signal."

## **Chapter 68 Section 4 Laws 2007**

Section 4. Section 31-21-10.1 NMSA 1978 (being Laws 2003 (1st S.S.), Chapter 1, Section 9) is amended to read:

"31-21-10.1. SEX OFFENDERS--PERIOD OF PAROLE--TERMS AND CONDITIONS OF PAROLE.--

A. If the district court sentences a sex offender to a term of incarceration in a facility designated by the corrections department, the district court shall include a provision in the judgment and sentence that specifically requires the sex offender to serve an indeterminate period of supervised parole for a period of not less than five years and not in excess of twenty years. A sex offender's period of supervised parole may be for a period of less than twenty years if, at a review hearing provided for in Subsection B of this section, the state is unable to prove that the sex offender should remain on parole. Prior to placing a sex offender on parole, the board shall conduct a

hearing to determine the terms and conditions of supervised parole for the sex offender. The board may consider any relevant factors, including:

(1) the nature and circumstances of the offense for which the sex offender was incarcerated;

(2) the nature and circumstances of a prior sex offense committed by the sex offender;

(3) rehabilitation efforts engaged in by the sex offender, including participation in treatment programs while incarcerated or elsewhere;

(4) the danger to the community posed by the sex offender; and

(5) a risk and needs assessment regarding the sex offender, developed by the sex offender management board of the New Mexico sentencing commission or another appropriate entity, to be used by appropriate parole board personnel.

B. The board shall review the terms and conditions of a sex offender's supervised parole at two and one-half year intervals. When a sex offender has served the initial five years of supervised parole, the board shall also review the duration of the sex offender's supervised parole at two and one-half year intervals. When a sex offender has served the initial five years of supervised parole, at each review hearing the state shall bear the burden of proving to a reasonable certainty that the sex offender should remain on parole.

C. The board may order a sex offender released on parole to abide by reasonable terms and conditions of parole, including:

(1) being subject to intensive supervision by a parole officer of the corrections department;

(2) participating in an outpatient or inpatient sex offender treatment program;

(3) a parole agreement by the sex offender not to use alcohol or drugs;

(4) a parole agreement by the sex offender not to have contact with certain persons or classes of persons; and

(5) being subject to alcohol testing, drug testing or polygraph examinations used to determine if the sex offender is in compliance with the terms and conditions of the sex offender's parole.

D. The board shall notify the chief public defender of an upcoming parole hearing for a sex offender, and the chief public defender shall make representation available to the sex offender at the parole hearing.

E. If the board finds that a sex offender has violated the terms and conditions of the sex offender's parole, the board may revoke the sex offender's parole or may order additional terms and conditions of parole.

F. The provisions of this section shall apply to all sex offenders, except geriatric, permanently incapacitated and terminally ill inmates eligible for the medical and geriatric parole program as provided by the Parole Board Act.

G. As used in this section, "sex offender" means a person who is convicted of, pleads guilty to or pleads nolo contendere to any one of the following offenses:

(1) kidnapping, as provided in Section 30-4-1 NMSA 1978, when committed with intent to inflict a sexual offense upon the victim;

(2) criminal sexual penetration in the first, second or third degree, as provided in Section 30-9-11 NMSA 1978;

(3) criminal sexual contact of a minor in the second or third degree, as provided in Section 30-9-13 NMSA 1978;

(4) sexual exploitation of children in the second degree, as provided in Section 30-6A-3 NMSA 1978;

(5) sexual exploitation of children by prostitution in the first or second degree, as provided in Section 30-6A-4 NMSA 1978; or

(6) child solicitation by electronic communication device, as provided in Section 30-37-3.2 NMSA 1978."

## **Chapter 68 Section 5 Laws 2007**

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Public Affairs Committee

Substitute for Senate Bill 735

Approved March 29, 2007

# **LAWS 2007, CHAPTER 69**

## **AN ACT**

RELATING TO SEX OFFENDERS; CREATING A NEW CRIME OF AGGRAVATED CRIMINAL SEXUAL PENETRATION; INCREASING PENALTIES FOR SEX OFFENSES AGAINST MINORS; RESPONDING TO JESSICA'S LAW; IMPOSING LIFETIME PAROLE SUPERVISION FOR CERTAIN SEX OFFENDERS; CLARIFYING STANDARD OF PROOF; CLARIFYING DEFINITIONS; INCREASING PERIOD OF PAROLE FOR CRIMINAL SEXUAL CONTACT OF A MINOR IN THE FOURTH DEGREE.

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

### **Chapter 69 Section 1 Laws 2007**

Section 1. Section 30-9-11 NMSA 1978 (being Laws 1975, Chapter 109, Section 2, as amended) is amended to read:

"30-9-11. CRIMINAL SEXUAL PENETRATION.--

A. Criminal sexual penetration is the unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration, to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission.

B. Criminal sexual penetration does not include medically indicated procedures.

C. Aggravated criminal sexual penetration consists of all criminal sexual penetration perpetrated on a child under nine years of age with an intent to kill or with a depraved mind regardless of human life. Whoever commits aggravated criminal sexual penetration is guilty of a first degree felony for aggravated criminal sexual penetration.

D. Criminal sexual penetration in the first degree consists of all criminal sexual penetration perpetrated:

- (1) on a child under thirteen years of age; or
- (2) by the use of force or coercion that results in great bodily harm or great mental anguish to the victim.

Whoever commits criminal sexual penetration in the first degree is guilty of a first degree felony.

E. Criminal sexual penetration in the second degree consists of all criminal sexual penetration perpetrated:

- (1) by the use of force or coercion on a child thirteen to eighteen years of age;
- (2) on an inmate confined in a correctional facility or jail when the perpetrator is in a position of authority over the inmate;
- (3) by the use of force or coercion that results in personal injury to the victim;
- (4) by the use of force or coercion when the perpetrator is aided or abetted by one or more persons;
- (5) in the commission of any other felony; or
- (6) when the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual penetration in the second degree is guilty of a second degree felony.

Whoever commits criminal sexual penetration in the second degree when the victim is a child who is thirteen to eighteen years of age is guilty of a second degree felony for a sexual offense against a child and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a minimum term of imprisonment of three years, which shall not be suspended or deferred. The imposition of a minimum, mandatory term of imprisonment pursuant to the provisions of this subsection shall not be interpreted to preclude the imposition of sentencing enhancements pursuant to the provisions of the Criminal Sentencing Act.

F. Criminal sexual penetration in the third degree consists of all criminal sexual penetration perpetrated through the use of force or coercion not otherwise specified in this section.

Whoever commits criminal sexual penetration in the third degree is guilty of a third degree felony.

G. Criminal sexual penetration in the fourth degree consists of all criminal sexual penetration:

- (1) not defined in Subsections D through F of this section perpetrated on a child thirteen to sixteen years of age when the perpetrator is at least eighteen years of age and is at least four years older than the child and not the spouse of that child; or

(2) perpetrated on a child thirteen to eighteen years of age when the perpetrator, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer, and who is at least eighteen years of age and is at least four years older than the child and not the spouse of that child, learns while performing services in or for a school that the child is a student in a school.

Whoever commits criminal sexual penetration in the fourth degree is guilty of a fourth degree felony."

## **Chapter 69 Section 2 Laws 2007**

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, nine years imprisonment;
- (7) for a third degree felony resulting in the death of a human being, six years imprisonment;
- (8) for a third degree felony for a sexual offense against a child, six years imprisonment;
- (9) for a third degree felony, three years imprisonment; or
- (10) 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, 31-18-16.1 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, ten thousand dollars (\$10,000);

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

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

(9) for a third or fourth degree felony, 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 69 Section 3 Laws 2007**

Section 3. Section 31-21-10 NMSA 1978 (being Laws 1980, Chapter 28, Section 1, as amended) is amended to read:

"31-21-10. PAROLE AUTHORITY AND PROCEDURE.--

A. An inmate of an institution who was sentenced to life imprisonment becomes eligible for a parole hearing after the inmate has served thirty years of the sentence. Before ordering the parole of an inmate sentenced to life imprisonment, the board shall:

- (1) interview the inmate at the institution where the inmate is committed;
- (2) consider all pertinent information concerning the inmate, including:
  - (a) the circumstances of the offense;
  - (b) mitigating and aggravating circumstances;

offense;

- (c) whether a deadly weapon was used in the commission of the

- (d) whether the inmate is a habitual offender;

- (e) the reports filed under Section 31-21-9 NMSA 1978; and

- (f) the reports of such physical and mental examinations as have been made while in an institution;

- (3) make a finding that a parole is in the best interest of society and the inmate; and

- (4) make a finding that the inmate is able and willing to fulfill the obligations of a law-abiding citizen.

If parole is denied, the inmate sentenced to life imprisonment shall again become entitled to a parole hearing at two-year intervals. The board may, on its own motion, reopen any case in which a hearing has already been granted and parole denied.

B. Unless the board finds that it is in the best interest of society and the parolee to reduce the period of parole, a person who was convicted of a capital felony shall be required to undergo a minimum period of parole of five years. During the period of parole, the person shall be under the guidance and supervision of the board.

C. Except for certain sex offenders as provided in Section 31-21-10.1 NMSA 1978, an inmate who was convicted of a first, second or third degree felony and who has served the sentence of imprisonment imposed by the court in an institution designated by the corrections department shall be required to undergo a two-year period of parole. An inmate who was convicted of a fourth degree felony and who has served the sentence of imprisonment imposed by the court in an institution designated by the corrections department shall be required to undergo a one-year period of parole. During the period of parole, the person shall be under the guidance and supervision of the board.

D. Every person while on parole shall remain in the legal custody of the institution from which the person was released, but shall be subject to the orders of the board. The board shall furnish to each inmate as a prerequisite to release under its supervision a written statement of the conditions of parole that shall be accepted and agreed to by the inmate as evidenced by the inmate's signature affixed to a duplicate copy to be retained in the files of the board. The board shall also require as a prerequisite to release the submission and approval of a parole plan. If an inmate refuses to affix the inmate's signature to the written statement of the conditions of parole or does not have an approved parole plan, the inmate shall not be released and shall remain in the custody of the institution in which the inmate has served the inmate's sentence, excepting parole, until such time as the period of parole the inmate was

required to serve, less meritorious deductions, if any, expires, at which time the inmate shall be released from that institution without parole, or until such time that the inmate evidences acceptance and agreement to the conditions of parole as required or receives approval for the inmate's parole plan or both. Time served from the date that an inmate refuses to accept and agree to the conditions of parole or fails to receive approval for the inmate's parole plan shall reduce the period, if any, to be served under parole at a later date. If the district court has ordered that the inmate make restitution to a victim as provided in Section 31-17-1 NMSA 1978, the board shall include restitution as a condition of parole. The board shall also personally apprise the inmate of the conditions of parole and the inmate's duties relating thereto.

E. When a person on parole has performed the obligations of the person's release for the period of parole provided in this section, the board shall make a final order of discharge and issue the person a certificate of discharge.

F. Pursuant to the provisions of Section 31-18-15 NMSA 1978, the board shall require the inmate as a condition of parole:

(1) to pay the actual costs of parole services to the adult probation and parole division of the corrections department for deposit to the corrections department intensive supervision fund not exceeding one thousand eight hundred dollars (\$1,800) annually to be paid in monthly installments of not less than twenty-five dollars (\$25.00) and not more than one hundred fifty dollars (\$150), as set by the appropriate district supervisor of the adult probation and parole division, based upon the financial circumstances of the defendant. The defendant's payment of the supervised parole costs shall not be waived unless the board holds an evidentiary hearing and finds that the defendant is unable to pay the costs. If the board waives the defendant's payment of the supervised parole costs and the defendant's financial circumstances subsequently change so that the defendant is able to pay the costs, the appropriate district supervisor of the adult probation and parole division shall advise the board and the board shall hold an evidentiary hearing to determine whether the waiver should be rescinded; and

(2) to reimburse a law enforcement agency or local crime stopper program for the amount of any reward paid by the agency or program for information leading to the inmate's arrest, prosecution or conviction.

G. The provisions of this section shall apply to all inmates except geriatric, permanently incapacitated and terminally ill inmates eligible for the medical and geriatric parole program as provided by the Parole Board Act."

## **Chapter 69 Section 4 Laws 2007**

Section 4. Section 31-21-10.1 NMSA 1978 (being Laws 2003 (1st S.S.), Chapter 1, Section 9) is amended to read:

"31-21-10.1. SEX OFFENDERS--PERIOD OF PAROLE--TERMS AND CONDITIONS OF PAROLE.--

A. If the district court sentences a sex offender to a term of incarceration in a facility designated by the corrections department, the district court shall include a provision in the judgment and sentence that specifically requires the sex offender to serve an indeterminate period of supervised parole for a period of:

(1) not less than five years and not in excess of twenty years for the offense of kidnapping when committed with intent to inflict a sexual offense upon the victim, criminal sexual penetration in the third degree, criminal sexual contact of a minor in the fourth degree or sexual exploitation of children in the second degree; or

(2) not less than five years and up to the natural life of the sex offender for the offense of aggravated criminal sexual penetration, criminal sexual penetration in the first or second degree, criminal sexual contact of a minor in the second or third degree or sexual exploitation of children by prostitution in the first or second degree.

A sex offender's period of supervised parole may be for a period of less than the maximum if, at a review hearing provided for in Subsection C of this section, the state is unable to prove that the sex offender should remain on parole.

B. Prior to placing a sex offender on parole, the board shall conduct a hearing to determine the terms and conditions of supervised parole for the sex offender. The board may consider any relevant factors, including:

(1) the nature and circumstances of the offense for which the sex offender was incarcerated;

(2) the nature and circumstances of a prior sex offense committed by the sex offender;

(3) rehabilitation efforts engaged in by the sex offender, including participation in treatment programs while incarcerated or elsewhere;

(4) the danger to the community posed by the sex offender; and

(5) a risk and needs assessment regarding the sex offender, developed by the sex offender management board of the New Mexico sentencing commission or another appropriate entity, to be used by appropriate parole board personnel.

C. When a sex offender has served the initial five years of supervised parole, and at two and one-half year intervals thereafter, the board shall review the duration of the sex offender's supervised parole. At each review hearing, the attorney general shall

bear the burden of proving by clear and convincing evidence that the sex offender should remain on parole.

D. The board may order a sex offender released on parole to abide by reasonable terms and conditions of parole, including:

- (1) being subject to intensive supervision by a parole officer of the corrections department;
- (2) participating in an outpatient or inpatient sex offender treatment program;
- (3) a parole agreement by the sex offender not to use alcohol or drugs;
- (4) a parole agreement by the sex offender not to have contact with certain persons or classes of persons; and
- (5) being subject to alcohol testing, drug testing or polygraph examinations used to determine if the sex offender is in compliance with the terms and conditions of the sex offender's parole.

E. The board shall require electronic real-time monitoring of every sex offender released on parole for the entire time the sex offender is on parole. The electronic monitoring shall use global positioning system monitoring technology or any successor technology that would give continuous information on the sex offender's whereabouts and enable law enforcement and the corrections department to determine the real-time position of a sex offender to a high level of accuracy.

F. The board shall notify the chief public defender of an upcoming parole hearing for a sex offender pursuant to Subsection C of this section, and the chief public defender shall make representation available to the sex offender at the parole hearing.

G. If the board finds that a sex offender has violated the terms and conditions of parole, the board may revoke the sex offender's parole or may modify the terms and conditions of parole.

The provisions of this section shall apply to all sex offenders, except geriatric, permanently incapacitated and terminally ill inmates eligible for the medical and geriatric parole program as provided by the Parole Board Act.

I. As used in this section, "sex offender" means a person who is convicted of, pleads guilty to or pleads nolo contendere to any one of the following offenses:

- (1) kidnapping, as provided in Section 30-4-1 NMSA 1978, when committed with intent to inflict a sexual offense upon the victim;

(2) aggravated criminal sexual penetration or criminal sexual penetration in the first, second or third degree, as provided in Section 30-9-11 NMSA 1978;

(3) criminal sexual contact of a minor in the second, third or fourth degree, as provided in Section 30-9-13 NMSA 1978;

(4) sexual exploitation of children in the second degree, as provided in Section 30-6A-3 NMSA 1978; or

(5) sexual exploitation of children by prostitution in the first or second degree, as provided in Section 30-6A-4 NMSA 1978."

## **Chapter 69 Section 5 Laws 2007**

Section 5. Section 29-11A-3 NMSA 1978 (being Laws 1995, Chapter 106, Section 3, as amended) is amended to read:

"29-11A-3. DEFINITIONS.-- As used in the Sex Offender Registration and Notification Act:

A. "conviction" means a conviction in any court of competent jurisdiction and includes a deferred sentence, but does not include a conditional discharge;

B. "institution of higher education" means a:

(1) private or public post-secondary educational institution;

(2) trade school; or

(3) professional school;

C. "registration requirement" means any requirement set forth in Section 29-11A-4 NMSA 1978 that requires a sex offender to register, provide information, including a DNA sample, renew, revise or change registration information or provide written notice or disclosure regarding the sex offender's status as a sex offender;

D. "sex offender" means a person who:

(1) is a resident of New Mexico who is convicted of a sex offense pursuant to state, federal, tribal or military law;

(2) changes residence to New Mexico, when that person has been convicted of a sex offense pursuant to state, federal, tribal or military law;

(3) does not have an established residence in New Mexico, but lives in a shelter, halfway house or transitional living facility or stays in multiple locations in New Mexico and who has been convicted of a sex offense pursuant to state, federal, tribal or military law; or

(4) is a resident of another state and who has been convicted of a sex offense pursuant to state, federal, tribal or military law, but who is:

(a) employed full time or part time in New Mexico for a period of time exceeding fourteen days or for an aggregate period of time exceeding thirty days during any calendar year, including any employment or vocation, whether financially compensated, volunteered or for the purpose of government or educational benefit; or

(b) enrolled on a full-time or part-time basis in a private or public school or an institution of higher education in New Mexico; and

E. "sex offense" means any of the following offenses or their equivalents in any other jurisdiction:

(1) aggravated criminal sexual penetration or criminal sexual penetration in the first, second, third or fourth degree, as provided in Section 30-9-11 NMSA 1978;

(2) criminal sexual contact in the fourth degree, as provided in Section 30-9-12 NMSA 1978;

(3) criminal sexual contact of a minor in the second, third or fourth degree, as provided in Section 30-9-13 NMSA 1978;

(4) sexual exploitation of children, as provided in Section 30-6A-3 NMSA 1978;

(5) sexual exploitation of children by prostitution, as provided in Section 30-6A-4 NMSA 1978;

(6) kidnapping, as provided in Section 30-4-1 NMSA 1978, when the victim is less than eighteen years of age and the offender is not a parent of the victim;

(7) false imprisonment, as provided in Section 30-4-3 NMSA 1978, when the victim is less than eighteen years of age and the offender is not a parent of the victim;

(8) aggravated indecent exposure, as provided in Section 30-9-14.3 NMSA 1978;

(9) enticement of child, as provided in Section 30-9-1 NMSA 1978;

(10) incest, as provided in Section 30-10-3 NMSA 1978, when the victim is less than eighteen years of age;

(11) solicitation to commit criminal sexual contact of a minor in the second, third or fourth degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

(12) attempt to commit any of the sex offenses set forth in Paragraphs (1) through (10) of this subsection, as provided in Section 30-28-1 NMSA 1978."

## **Chapter 69 Section 6 Laws 2007**

Section 6. Section 29-11A-5 NMSA 1978 (being Laws 1995, Chapter 106, Section 5, as amended) is amended to read:

"29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

A. A county sheriff shall maintain a local registry of sex offenders in the sheriff's jurisdiction required to register pursuant to the provisions of the Sex Offender Registration and Notification Act.

B. The county sheriff shall forward:

(1) registration information obtained from sex offenders to the department of public safety. The initial registration information and any new registration information subsequently obtained from a sex offender shall be forwarded by the county sheriff no later than ten working days after the information is obtained from a sex offender. If the department of public safety receives information regarding a sex offender from a governmental entity other than a county sheriff, the department shall send that information to the sheriff for the county in which the sex offender resides; and

(2) samples of DNA obtained from sex offenders to the administrative center for the sex offender DNA identification system pursuant to the provisions of the DNA Identification Act.

C. The department of public safety shall maintain a central registry of sex offenders required to register pursuant to the provisions of the Sex Offender Registration and Notification Act. The department shall participate in the national sex offender registry administered by the United States department of justice. The department shall send conviction information and fingerprints for all sex offenders registered in New Mexico to the national sex offender registry administered by the United States department of justice and to the federal bureau of investigation.

D. The department of public safety shall retain registration information regarding a sex offender convicted for any of the following sex offenses for the entirety of the sex offender's natural life:

(1) aggravated criminal sexual penetration or criminal sexual penetration in the first, second or third degree, as provided in Section 30-9-11 NMSA 1978;

(2) criminal sexual contact of a minor in the second, third or fourth degree, as provided in Section 30-9-13 NMSA 1978;

(3) sexual exploitation of children, as provided in Section 30-6A-3 NMSA 1978;

(4) kidnapping, as provided in Section 30-4-1 NMSA 1978, when the victim is less than eighteen years of age and the offender is not a parent of the victim;

(5) criminal sexual contact in the fourth degree, as provided in Section 30-9-12 NMSA 1978; or

(6) attempt to commit any of the sex offenses set forth in Paragraphs (1) through (5) of this subsection, as provided in Section 30-28-1 NMSA 1978.

E. The department of public safety shall retain registration information regarding a sex offender convicted for the following offenses for a period of ten years following the sex offender's conviction, release from prison or release from probation or parole, whichever occurs later:

(1) criminal sexual penetration in the fourth degree, as provided in Section 30-9-11 NMSA 1978;

(2) sexual exploitation of children by prostitution, as provided in Section 30-6A-4 NMSA 1978;

(3) false imprisonment, as provided in Section 30-4-3 NMSA 1978, when the victim is less than eighteen years of age and the offender is not a parent of the victim;

(4) aggravated indecent exposure, as provided in Section 30-9-14.3 NMSA 1978;

(5) enticement of child, as provided in Section 30-9-1 NMSA 1978;

(6) incest, as provided in Section 30-10-3 NMSA 1978, when the victim is less than eighteen years of age;

(7) solicitation to commit criminal sexual contact of a minor in the second, third or fourth degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

(8) attempt to commit any of the sex offenses set forth in Paragraphs (1) through (6) of this subsection, as provided in Section 30-28-1 NMSA 1978.

F. Notwithstanding the provisions of Subsection E of this section, if a sex offender is convicted a second or subsequent time for a sex offense set forth in that subsection, the department of public safety shall retain information regarding the sex offender for the entirety of the sex offender's natural life.

G. The department of public safety shall adopt rules necessary to carry out the provisions of the Sex Offender Registration and Notification Act. Rules necessary for the collection of DNA samples and the administration and operation of the sex offender DNA identification system shall be adopted by the DNA identification system oversight committee pursuant to the provisions of the DNA Identification Act."

## **Chapter 69 Section 7 Laws 2007**

Section 7. Section 29-11A-5.1 NMSA 1978 (being Laws 1999, Chapter 19, Section 8, as amended) is amended to read:

"29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY NOTIFICATION--INTERNET WEB SITE.--

A. If a sex offender is convicted of one of the following sex offenses, the county sheriff shall forward registration information obtained from the sex offender to the district attorney for the judicial district in which the sex offender resides and, if the sex offender is a resident of a municipality, the chief law enforcement officer for the municipality in which the sex offender resides:

(1) aggravated criminal sexual penetration or criminal sexual penetration in the first, second or third degree, as provided in Section 30-9-11 NMSA 1978;

(2) criminal sexual contact of a minor in the second, third or fourth degree, as provided in Section 30-9-13 NMSA 1978;

(3) sexual exploitation of children, as provided in Section 30-6A-3 NMSA 1978;

(4) sexual exploitation of children by prostitution, as provided in Section 30-6A-4 NMSA 1978; or

(5) attempt to commit any of the sex offenses set forth in Paragraphs (1) through (4) of this subsection, as provided in Section 30-28-1 NMSA 1978.

B. A person who wants to obtain registration information regarding sex offenders described in Subsection A of this section may request that information from the:

- (1) sheriff for the county in which the sex offenders reside;
- (2) chief law enforcement officer for the municipality in which the sex offenders reside;
- (3) district attorney for the judicial district in which the sex offenders reside; or
- (4) secretary of public safety.

C. Upon receiving a request for registration information regarding sex offenders described in Subsection A of this section, the county sheriff, chief municipal law enforcement officer, district attorney or secretary of public safety shall provide that registration information, with the exception of a sex offender's social security number and DNA information, within a reasonable period of time, and no later than seven days after receiving the request.

D. Within seven days of receiving registration information from a sex offender described in Subsection A of this section, the county sheriff shall contact every licensed daycare center, elementary school, middle school and high school within a one-mile radius of the sex offender's residence and provide them with the sex offender's registration information, with the exception of the sex offender's social security number and DNA information.

E. The department of public safety shall establish and manage an internet web site that provides the public with registration information regarding sex offenders described in Subsection A of this section, except that the department of public safety shall not provide registration information on the internet web site regarding a sex offender who was less than eighteen years of age when the sex offender committed the sex offense for which the sex offender was convicted as a youthful offender, as provided in Section 32A-2-3 NMSA 1978, unless at the time of sentencing, the court made a finding that the sex offender is not amenable to treatment and is a danger to the community. The registration information provided to the public pursuant to this subsection shall not include a sex offender's social security number or DNA information or a sex offender's place of employment, unless the sex offender's employment requires the sex offender to have direct contact with children."

## **Chapter 69 Section 8 Laws 2007**

Section 8. APPLICABILITY.--The provisions of Section 5 of this act are applicable to:

- A. a person convicted of a sex offense on or after July 1, 1995; and
- B. a person convicted of a sex offense prior to July 1, 1995 and who, on July 1, 1995, was still incarcerated, on probation or on parole for commission of that sex offense.

## **Chapter 69 Section 9 Laws 2007**

Section 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Judiciary Committee Substitute for

Senate Bills 528 and 439, as amended

Approved March 29, 2007

# **LAWS 2007, CHAPTER 70**

AN ACT

RELATING TO HIGHER EDUCATION; ALLOWING COLLEGE AFFORDABILITY SCHOLARSHIPS TO BE USED AT TRIBAL COLLEGES; DEFINING ELIGIBLE STUDENT; MAKING AN APPROPRIATION.

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

## **Chapter 70 Section 1 Laws 2007**

Section 1. Section 21-21L-1 NMSA 1978 (being Laws 2005, Chapter 192, Section 1) is amended to read:

"21-21L-1. SHORT TITLE.--Chapter 21, Article 21L NMSA 1978 may be cited as the "College Affordability Act"."

## **Chapter 70 Section 2 Laws 2007**

Section 2. Section 21-21L-3 NMSA 1978 (being Laws 2005, Chapter 192, Section 3) is amended to read:

"21-21L-3. DEFINITIONS.--As used in the College Affordability Act:

A. "commission" or "department" means the higher education department;

B. "eligible student" means a New Mexico resident who is enrolled or enrolling at least half-time in a public post-secondary educational institution or tribal college at any time later than one hundred twenty days following high school graduation or the award of a general educational development certificate;

C. "scholarship" means a college affordability scholarship; and

D. "tribal college" means a tribally, federally or congressionally chartered post-secondary educational institution located in New Mexico that is accredited by the north central association of colleges and schools."

### **Chapter 70 Section 3 Laws 2007**

Section 3. Section 21-21L-4 NMSA 1978 (being Laws 2005, Chapter 192, Section 4) is amended to read:

"21-21L-4. CONDITIONS FOR ELIGIBILITY.--A scholarship may be awarded to an eligible student who:

A. has not earned a baccalaureate degree at the time the scholarship is awarded;

B. has demonstrated financial need consistent with the criteria promulgated by the department; and

C. has complied with other rules promulgated by the department to carry out the provisions of the College Affordability Act."

### **Chapter 70 Section 4 Laws 2007**

Section 4. Section 21-21L-5 NMSA 1978 (being Laws 2005, Chapter 192, Section 5) is amended to read:

"21-21L-5. SCHOLARSHIP AUTHORIZED--ADMINISTRATION--PREFERENCE IN SCHOLARSHIP AWARDS.--

A. The department shall administer the College Affordability Act and shall promulgate rules to carry out the provisions of that act.

B. Scholarships shall be awarded to qualified eligible students. Qualifications shall be determined by rule of the department.

C. The department shall allocate money to public post-secondary educational institutions and tribal colleges based on a student need formula calculated according to income reported on the free application for federal student aid and on the percentage of the institution's students classified as returning adults who are otherwise ineligible for state financial aid.

D. Public post-secondary educational institutions and tribal colleges shall make awards to qualifying eligible students based on financial need in an amount not to exceed one thousand dollars (\$1,000) per semester as determined by rule of the department.

E. Money for the scholarship shall be placed in an account at the public post-secondary educational institution or tribal college in the name of the eligible student, and the money may be drawn upon to pay educational expenses charged by the institution, including tuition, fees, books and course supplies."

## **Chapter 70 Section 5 Laws 2007**

Section 5. Section 21-21L-6 NMSA 1978 (being Laws 2005, Chapter 192, Section 6) is amended to read:

"21-21L-6. DURATION OF SCHOLARSHIP.--Each scholarship is for a period of one semester. A scholarship may be renewed, provided the eligible student continues to meet the conditions of eligibility, until the eligible student graduates from a four-year public post-secondary educational institution."

## **Chapter 70 Section 6 Laws 2007**

Section 6. Section 21-21L-7 NMSA 1978 (being Laws 2005, Chapter 192, Section 7) is amended to read:

"21-21L-7. TERMINATION OF SCHOLARSHIP.--A scholarship is terminated upon occurrence of one or more of the following:

A. withdrawal of the eligible student from the public post-secondary educational institution or tribal college or failure to remain as at least a half-time student;

B. failure of the eligible student to achieve satisfactory academic progress; or

C. substantial noncompliance by the eligible student with the College Affordability Act or the rules promulgated pursuant to that act."

## **Chapter 70 Section 7 Laws 2007**

Section 7. Section 21-21L-8 NMSA 1978 (being Laws 2005, Chapter 192, Section 8) is amended to read:

"21-21L-8. FUNDS CREATED.--

A. The "college affordability endowment fund" is created as a nonreverting fund in the state treasury, consisting of appropriations; unspecified gifts, grants and donations to the fund; and income from investment of the fund except as provided in Subsection C of this section.

B. The "college affordability scholarship fund" is created as a nonreverting fund in the state treasury, consisting of income from investment of the fund and any specified distributions, appropriations, gifts, grants and donations to the fund. Money in the scholarship fund is appropriated to the department for scholarship awards as provided in the College Affordability Act. Expenditures from the scholarship fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of higher education or the secretary's authorized representative.

C. Until fifty percent of the annual income from investment of the college affordability endowment fund is equal to or exceeds two million dollars (\$2,000,000), an annual distribution of two million dollars (\$2,000,000) shall be made from the college affordability endowment fund to the college affordability scholarship fund. Thereafter, until the corpus of the endowment fund is two hundred fifty million dollars (\$250,000,000), fifty percent of the income from investment of the fund shall be applied to the corpus of the fund and fifty percent shall be distributed annually to the scholarship fund. After the corpus of the endowment fund is two hundred fifty million dollars (\$250,000,000), all of the income from investment of the fund shall be distributed to the college affordability scholarship fund."

## **Chapter 70 Section 8 Laws 2007**

Section 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Education Committee Substitute

for Senate Bill 355, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 71**

AN ACT

RELATING TO HIGHER EDUCATION; ALLOWING COLLEGE AFFORDABILITY SCHOLARSHIPS TO BE USED AT TRIBAL COLLEGES; DEFINING ELIGIBLE STUDENT; MAKING AN APPROPRIATION.

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

### **Chapter 71 Section 1 Laws 2007**

Section 1. Section 21-21L-1 NMSA 1978 (being Laws 2005, Chapter 192, Section 1) is amended to read:

"21-21L-1. SHORT TITLE.--Chapter 21, Article 21L NMSA 1978 may be cited as the "College Affordability Act"."

### **Chapter 71 Section 2 Laws 2007**

Section 2. Section 21-21L-3 NMSA 1978 (being Laws 2005, Chapter 192, Section 3) is amended to read:

"21-21L-3. DEFINITIONS.--As used in the College Affordability Act:

- A. "commission" or "department" means the higher education department;
- B. "eligible student" means a New Mexico resident who is enrolled or enrolling at least half-time in a public post-secondary educational institution or tribal college at any time later than one hundred twenty days following high school graduation or the award of a general educational development certificate;
- C. "scholarship" means a college affordability scholarship; and
- D. "tribal college" means a tribally, federally or congressionally chartered post-secondary educational institution located in New Mexico that is accredited by the north central association of colleges and schools."

### **Chapter 71 Section 3 Laws 2007**

Section 3. Section 21-21L-4 NMSA 1978 (being Laws 2005, Chapter 192, Section 4) is amended to read:

"21-21L-4. CONDITIONS FOR ELIGIBILITY.--A scholarship may be awarded to an eligible student who:

- A. has not earned a baccalaureate degree at the time the scholarship is awarded;
- B. has demonstrated financial need consistent with the criteria promulgated by the department; and
- C. has complied with other rules promulgated by the department to carry out the provisions of the College Affordability Act."

## **Chapter 71 Section 4 Laws 2007**

Section 4. Section 21-21L-5 NMSA 1978 (being Laws 2005, Chapter 192, Section 5) is amended to read:

"21-21L-5. SCHOLARSHIP AUTHORIZED--ADMINISTRATION--PREFERENCE IN SCHOLARSHIP AWARDS.--

A. The department shall administer the College Affordability Act and shall promulgate rules to carry out the provisions of that act.

B. Scholarships shall be awarded to qualified eligible students. Qualifications shall be determined by rule of the department.

C. The department shall allocate money to public post-secondary educational institutions and tribal colleges based on a student need formula calculated according to income reported on the free application for federal student aid and on the percentage of the institution's students classified as returning adults who are otherwise ineligible for state financial aid.

D. Public post-secondary educational institutions and tribal colleges shall make awards to qualifying eligible students based on financial need in an amount not to exceed one thousand dollars (\$1,000) per semester as determined by rule of the department.

E. Money for the scholarship shall be placed in an account at the public post-secondary educational institution or tribal college in the name of the eligible student, and the money may be drawn upon to pay educational expenses charged by the institution, including tuition, fees, books and course supplies."

## **Chapter 71 Section 5 Laws 2007**

Section 5. Section 21-21L-6 NMSA 1978 (being Laws 2005, Chapter 192, Section 6) is amended to read:

"21-21L-6. DURATION OF SCHOLARSHIP.--Each scholarship is for a period of one semester. A scholarship may be renewed, provided the eligible student continues to meet the conditions of eligibility, until the eligible student graduates from a four-year public post-secondary educational institution."

## **Chapter 71 Section 6 Laws 2007**

Section 6. Section 21-21L-7 NMSA 1978 (being Laws 2005, Chapter 192, Section 7) is amended to read:

"21-21L-7. TERMINATION OF SCHOLARSHIP.--A scholarship is terminated upon occurrence of one or more of the following:

A. withdrawal of the eligible student from the public post-secondary educational institution or tribal college or failure to remain as at least a half-time student;

B. failure of the eligible student to achieve satisfactory academic progress; or

C. substantial noncompliance by the eligible student with the College Affordability Act or the rules promulgated pursuant to that act."

## **Chapter 71 Section 7 Laws 2007**

Section 7. Section 21-21L-8 NMSA 1978 (being Laws 2005, Chapter 192, Section 8) is amended to read:

"21-21L-8. FUNDS CREATED.--

A. The "college affordability endowment fund" is created as a nonreverting fund in the state treasury, consisting of appropriations; unspecified gifts, grants and donations to the fund; and income from investment of the fund except as provided in Subsection C of this section.

B. The "college affordability scholarship fund" is created as a nonreverting fund in the state treasury, consisting of income from investment of the fund and any specified distributions, appropriations, gifts, grants and donations to the fund. Money in the scholarship fund is appropriated to the department for scholarship awards as provided in the College Affordability Act. Expenditures from the scholarship fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of higher education or the secretary's authorized representative.

C. Until fifty percent of the annual income from investment of the college affordability endowment fund is equal to or exceeds two million dollars (\$2,000,000), an annual distribution of two million dollars (\$2,000,000) shall be made from the college affordability endowment fund to the college affordability scholarship fund. Thereafter, until the corpus of the endowment fund is two hundred fifty million dollars (\$250,000,000), fifty percent of the income from investment of the fund shall be applied to the corpus of the fund and fifty percent shall be distributed annually to the scholarship fund. After the corpus of the endowment fund is two hundred fifty million dollars (\$250,000,000), all of the income from investment of the fund shall be distributed to the college affordability scholarship fund."

## **Chapter 71 Section 8 Laws 2007**

Section 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 573, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 72**

### **AN ACT**

RELATING TO THE NEW MEXICO LOTTERY; REQUIRING THAT A PERCENTAGE OF EACH MONTH'S GROSS REVENUE BE DEPOSITED IN THE LOTTERY TUITION FUND; ELIMINATING THE LOTTERY RESERVE FUND; REQUIRING THE AUTHORITY TO COMPLY WITH THE PROVISIONS OF THE PROCUREMENT CODE; PROVIDING DUTIES; NAMING THE TUITION SCHOLARSHIP THE "LEGISLATIVE LOTTERY SCHOLARSHIP".

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

### **Chapter 72 Section 1 Laws 2007**

Section 1. Section 6-24-1 NMSA 1978 (being Laws 1995, Chapter 155, Section 1) is amended to read:

"6-24-1. SHORT TITLE.-- Chapter 6, Article 24 NMSA 1978 may be cited as the "New Mexico Lottery Act"."

### **Chapter 72 Section 2 Laws 2007**

Section 2. Section 6-24-4 NMSA 1978 (being Laws 1995, Chapter 155, Section 4) is amended to read:

"6-24-4. DEFINITIONS.--As used in the New Mexico Lottery Act:

- A. "authority" means the New Mexico lottery authority;
- B. "board" means the board of directors of the authority;
- C. "chief executive officer" means the chief executive officer of the authority appointed by the board pursuant to the New Mexico Lottery Act;
- D. "lottery" means the New Mexico state lottery established and operated by the authority pursuant to the New Mexico Lottery Act;

E. "lottery contractor" means a person with whom the authority has contracted for the purpose of providing goods or services for the lottery;

F. "lottery game" means any variation of the following types of games, but does not include any video lottery game:

(1) an instant-win game in which disposable tickets contain certain preprinted winners that are determined by rubbing or scraping an area or areas on the tickets to match numbers, letters, symbols or configurations, or any combination thereof, as provided by the rules of the game; provided, an instant-win game may also provide for preliminary and grand prize drawings conducted pursuant to the rules of the game; and

(2) an on-line lottery game in which a lottery game is hooked up to a central computer via a telecommunications system through which a player selects a specified group of numbers or symbols out of a predetermined range of numbers or symbols and purchases a ticket bearing the player-selected numbers or symbols for eligibility in a drawing regularly scheduled in accordance with game rules;

G. "lottery retailer" means a person with whom the authority has contracted for the purpose of selling tickets in lottery games to the public;

H. "lottery vendor" means any person who submits a bid, proposal or offer as part of a major procurement contract and any person who is awarded a major procurement contract; and

I. "person" means an individual or any other legal entity."

## **Chapter 72 Section 3 Laws 2007**

Section 3. Section 6-24-7 NMSA 1978 (being Laws 1995, Chapter 155, Section 7) is amended to read:

"6-24-7. BOARD OF DIRECTORS--DUTIES.--The board shall provide the authority with the private-sector perspective of a large marketing enterprise and shall make every effort to exercise sound and prudent business judgment in its management and promotion of the lottery. It is the duty of the board to:

A. adopt all rules, policies and procedures necessary for the establishment and operation of the lottery;

B. maximize the revenue for the public purposes of the New Mexico Lottery Act and to that end assure that all rules, policies and procedures adopted further revenue maximization;

C. appoint a chief executive officer, prescribe the chief executive officer's qualifications, duties and salary and set the salaries of the other officers and employees of the authority;

D. approve, disapprove, amend or modify the annual budget recommended by the chief executive officer for the operation of the authority;

E. approve or disapprove all procurements over seventy-five thousand dollars (\$75,000);

F. supervise the chief executive officer and the other officers and employees of the authority and meet with the chief executive officer at least once every three months to make and consider recommendations, set policies, determine types and forms of lottery games to be operated by the lottery and transact other necessary business;

G. conduct, with the chief executive officer, a continuing study of the lottery and other state lotteries to improve the efficiency, profitability and security of the authority and the lottery;

H. prepare quarterly and annual reports and maintain records as required under the New Mexico Lottery Act;

I. pursue other matters necessary, desirable or convenient for the efficient and effective operation of lottery games, the continued entertainment and convenience of the public and the integrity of the lottery; and

J. support problem gambling initiatives and provide information to players about where to obtain problem gambling assistance in New Mexico."

## **Chapter 72 Section 4 Laws 2007**

Section 4. Section 6-24-19 NMSA 1978 (being Laws 1995, Chapter 155, Section 19) is amended to read:

"6-24-19. PROCUREMENT--COMPETITIVE PROPOSALS.-- The authority shall enter into a contract for a procurement after evaluating competitive proposals and shall not design requests for proposals to provide only for sole source contracts. The authority shall conduct its own procurement, but the authority shall conduct all procurement in accordance with the Procurement Code. In all procurement decisions, the authority shall take into account the particularly sensitive nature of the lottery and shall act to promote and ensure security, honesty, fairness and integrity in the operation and administration of the lottery and the objectives of raising revenue for the public purposes of the New Mexico Lottery Act. Procurements shall not be artificially divided to reduce the cost of the procurement below the procurement thresholds provided in the Procurement Code."

## **Chapter 72 Section 5 Laws 2007**

Section 5. Section 6-24-24 NMSA 1978 (being Laws 1995, Chapter 155, Section 24, as amended) is amended to read:

"6-24-24. DISPOSITION OF REVENUE.--

A. As nearly as practical, an amount equal to at least fifty percent of the gross annual revenue from the sale of lottery tickets shall be returned to the public in the form of lottery prizes.

B. No later than the last business day of each month, the authority shall transmit at least twenty-seven percent of the gross revenue of the previous month until December 31, 2008 and at least thirty percent of the gross revenue of the previous month thereafter to the state treasurer, who shall deposit it in the lottery tuition fund.

C. Operating expenses of the lottery include all costs incurred in the operation and administration of the lottery and all costs resulting from any contracts entered into for the purchase or lease of goods or services required by the lottery, including the costs of supplies, materials, tickets, independent audit services, independent studies, data transmission, advertising, promotion, incentives, public relations, communications, commissions paid to lottery retailers, printing, distribution of tickets, purchases of annuities or investments to be used to pay future installments of winning lottery tickets, debt service and payment of any revenue bonds issued, contingency reserves, transfers to the reserve fund and any other necessary costs incurred in carrying out the provisions of the New Mexico Lottery Act."

## **Chapter 72 Section 6 Laws 2007**

Section 6. Section 6-24-27 NMSA 1978 (being Laws 1995, Chapter 155, Section 27, as amended) is amended to read:

"6-24-27. REVENUE AND BUDGET REPORTS--RECORDS--INDEPENDENT AUDITS.--

A. The board shall:

(1) submit quarterly and annual reports to the governor and the legislative finance committee disclosing the total lottery revenue, prizes, commissions, ticket costs, operating expenses and other revenue of the authority during the reporting period and, in the annual report, describe the organizational structure of the authority and summarize the functions performed by each organizational division within the authority;

(2) maintain weekly or more frequent records of lottery transactions, including the distribution of lottery tickets to retailers, revenue received, claims for prizes, prizes paid, prizes forfeited and other financial transactions of the authority; and

(3) use the state government fiscal year.

B. The board shall provide, for informational purposes, to the department of finance and administration and the legislative finance committee, by December 1 of each year, a copy of the annual proposed operating budget for the authority for the succeeding fiscal year. This budget proposal shall also be accompanied by an estimate of the revenue to be deposited in the lottery tuition fund for the current and succeeding fiscal years.

C. The board shall contract with an independent certified public accountant or firm for an annual financial audit of the authority. The certified public accountant or firm shall have no financial interest in any lottery contractor. The certified public accountant or firm shall present an audit report no later than March 1 for the prior fiscal year. The certified public accountant or firm shall evaluate the internal auditing controls in effect during the audit period. The cost of this financial audit shall be an operating expense of the authority. The legislative finance committee may, at any time, order an audit of any phase of the operations of the authority, at the expense of the authority, and shall receive a copy of the annual independent financial audit. A copy of any audit performed by the certified public accountant or ordered by the legislative finance committee shall be transmitted to the governor, the speaker of the house of representatives, the president pro tempore of the senate, the legislative finance committee and the legislative council service library."

## **Chapter 72 Section 7 Laws 2007**

Section 7. Section 21-1-4.3 NMSA 1978 (being Laws 1996, Chapter 71, Section 3, as amended) is amended to read:

"21-1-4.3. LEGISLATIVE LOTTERY SCHOLARSHIPS AUTHORIZED--

CERTAIN EDUCATIONAL INSTITUTIONS.--

A. To the extent that funds are made available by the legislature from the lottery tuition fund, the boards of regents of New Mexico state university, New Mexico institute of mining and technology, eastern New Mexico university, western New Mexico university, the university of New Mexico, New Mexico highlands university and northern New Mexico college shall award legislative lottery scholarships for tuition for qualified resident students attending their respective institutions and branches of those institutions.

B. Except as authorized in Subsections C and D of this section, the legislative lottery scholarships authorized in this section shall apply only to full-time resident students who, immediately upon completion of a high school curriculum at a public or accredited private New Mexico high school or upon receiving a graduate equivalent diploma, are accepted for entrance to and attend one of the state educational institutions set forth in this section or one of the branches of those institutions. Each

legislative lottery scholarship shall be awarded for up to four consecutive years beginning the second semester of the recipient's first year of enrollment, provided that the recipient has maintained residency in New Mexico and maintained a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full-time enrollment.

C. The legislative lottery scholarships authorized in this section shall also apply to full-time resident students who, immediately upon completion of a high school curriculum at a public or accredited private New Mexico high school or upon receiving a graduate equivalent diploma, attend a two-year public post-secondary educational institution in New Mexico and who, upon the completion of that curriculum or at the end of two years, whichever is sooner, transfer to one of the post-secondary state educational institutions set forth in this section. Those students shall be eligible for a legislative lottery scholarship for two consecutive years, provided that those students maintain residency in New Mexico, maintain a grade point average of 2.5 or higher on a 4.0 scale and attend the institution full time during the regular academic year.

D. The legislative lottery scholarships authorized in this section shall also apply to full-time resident students who:

(1) within one hundred twenty days of completion of a high school curriculum at a public or accredited private New Mexico high school, or of receiving a graduate equivalent diploma, begin service in the United States armed forces; and

(2) within one hundred twenty days of completion of honorable service or medical discharge from the service are accepted for entrance to and attend one of the state educational institutions set forth in this section.

E. The higher education department shall prepare guidelines setting forth explicit student continuing eligibility criteria and guidelines for administration of the legislative lottery scholarship program. Guidelines shall be distributed to the board of regents of each institution to enable a uniform availability of the resident student legislative lottery scholarships."

## **Chapter 72 Section 8 Laws 2007**

Section 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 364, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 73**

## AN ACT

RELATING TO HIGHER EDUCATION; DEFINING "FULL TIME" FOR STUDENTS WITH DISABILITIES FOR PURPOSES OF THE LEGISLATIVE LOTTERY SCHOLARSHIP PROGRAM.

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

### **Chapter 73 Section 1 Laws 2007**

Section 1. Section 21-1-4.3 NMSA 1978 (being Laws 1996, Chapter 71, Section 3, as amended) is amended to read:

"21-1-4.3. LEGISLATIVE LOTTERY SCHOLARSHIPS AUTHORIZED-- CERTAIN EDUCATIONAL INSTITUTIONS.--

A. To the extent that funds are made available by the legislature from the lottery tuition fund, the boards of regents of New Mexico state university, New Mexico institute of mining and technology, eastern New Mexico university, western New Mexico university, the university of New Mexico, New Mexico highlands university and northern New Mexico college shall award legislative lottery scholarships for qualified resident students attending their respective institutions and branches of those institutions.

B. Except as otherwise authorized in this section, the legislative lottery scholarships authorized in this section shall apply only to full-time resident students who, immediately upon completion of a high school curriculum at a public or accredited private New Mexico high school or upon receiving a graduate equivalent diploma, are accepted for entrance to and attend one of the state educational institutions set forth in this section or one of the branches of those institutions. Each legislative lottery scholarship shall be awarded for up to four consecutive years beginning the second semester of the recipient's first year of enrollment if the recipient has maintained residency in New Mexico and maintained a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full-time enrollment.

C. The legislative lottery scholarships authorized in this section shall also apply to full-time resident students who, immediately upon completion of a high school curriculum at a public or accredited private New Mexico high school or upon receiving a graduate equivalent diploma, attend a two-year public post-secondary educational institution in New Mexico and who, upon the completion of that curriculum or at the end of two years, whichever is sooner, transfer to one of the post-secondary state educational institutions set forth in this section. Those students shall be eligible for a legislative lottery scholarship for two consecutive years if they maintain residency in New Mexico, maintain a grade point average of 2.5 or higher on a 4.0 scale and attend the institution full time during the regular academic year.

D. The legislative lottery scholarships authorized in this section shall also apply to full-time resident students who:

(1) within one hundred twenty days of completion of a high school curriculum at a public or accredited private New Mexico high school, or of receiving a graduate equivalent diploma, begin service in the United States armed forces; and

(2) within one hundred twenty days of completion of honorable service or medical discharge from the service are accepted for entrance to and attend one of the state educational institutions set forth in this section.

E. The higher education department shall prepare guidelines setting forth explicit student continuing eligibility criteria and guidelines for administration of the legislative lottery scholarship program. Guidelines shall be distributed to the board of regents of each institution to enable a uniform availability of the resident student legislative lottery scholarships.

F. For purposes of the legislative lottery scholarship program as it applies to students with disabilities who may require special accommodations, the higher education department, in consultation with the student and the office at the institution that serves students with disabilities, shall review both the definition of "full time" and the maximum number of consecutive semesters of eligibility and adjust either or both as deemed reasonable and appropriate, based on the student's disability needs. In no case, however, shall "full time" mean fewer than six credit hours per semester and in no case shall eligibility extend beyond fourteen consecutive semesters."

## **Chapter 73 Section 2 Laws 2007**

Section 2. Section 21-13-10 NMSA 1978 (being Laws 1963, Chapter 17, Section 9, as amended) is amended to read:

### **"21-13-10. BOARD DUTIES.--**

A. It is the duty of the community college board to determine financial and educational policies of the community college. The community college board shall provide for the management of the community college and execution of these policies by selecting a competent president for the community college, and, upon the president's recommendation, the board shall employ other administrative personnel, instructional staff or other personnel as may be needed for the operation, maintenance and administration of the community college.

B. The community college board shall have the power to fix tuition and fee rates for resident and nonresident students of the community college district, to accept gifts, to accept federal aid, to purchase, hold, sell and rent property and equipment and to promote the general welfare of the institution for the best interest of educational service to the people of the community college district.

C. To the extent that funds are made available by the legislature from the lottery tuition fund, the community college board shall award legislative lottery scholarships for qualified resident students attending their respective institutions.

D. The legislative lottery scholarships authorized in this section shall apply only to full-time resident students who, immediately upon completion of a high school curriculum at a public or accredited private New Mexico high school or upon receiving a graduate equivalent diploma, are accepted for entrance to and attend a community college. Each legislative lottery scholarship shall be awarded for up to two consecutive years beginning the second semester of the recipient's first year of enrollment, provided that the recipient has maintained residency in New Mexico and maintained a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full-time enrollment.

E. The higher education department shall prepare guidelines setting forth explicit student continuing eligibility criteria and guidelines for administration of the legislative lottery scholarship program. Guidelines shall be distributed to community college boards to enable a uniform availability of the resident student lottery tuition scholarships.

F. For purposes of the legislative lottery scholarship program as it applies to students with disabilities who may require special accommodations, the higher education department, in consultation with the student and the office at the community college that serves students with disabilities, shall review both the definition of "full time" and the maximum number of consecutive semesters of eligibility and adjust either or both as deemed reasonable and appropriate, based on the student's disability needs. In no case, however, shall "full time" mean fewer than six credit hours per semester and in no case shall eligibility extend beyond fourteen consecutive semesters."

## **Chapter 73 Section 3 Laws 2007**

Section 3. Section 21-16-10.1 NMSA 1978 (being Laws 1996, Chapter 71, Section 6, as amended) is amended to read:

### **"21-16-10.1. LEGISLATIVE LOTTERY SCHOLARSHIPS AUTHORIZED.--**

A. To the extent that funds are made available by the legislature from the lottery tuition fund, the board of a technical and vocational institute shall award legislative lottery scholarships for qualified resident students attending a technical and vocational institute.

B. The legislative lottery scholarships authorized in this section shall apply only to full-time resident students who, immediately upon completion of a high school curriculum at a public or accredited private New Mexico high school or upon receiving a graduate equivalent diploma, are accepted for entrance to and attend a technical and vocational institute. Each legislative lottery scholarship shall be awarded for up to two

consecutive years beginning the second semester of the recipient's first year of enrollment, provided that the recipient has maintained residency in New Mexico and maintained a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full-time enrollment with renewal of an additional two years upon transfer.

C. The higher education department shall prepare guidelines setting forth explicit student continuing eligibility criteria and guidelines for administration of the legislative lottery scholarship program. Guidelines shall be distributed to the boards of technical and vocational institutes to enable a uniform availability of the resident student legislative lottery scholarships.

D. For purposes of the legislative lottery scholarship program as it applies to students with disabilities who may require special accommodations, the higher education department, in consultation with the student and the office at the technical and vocational institute that serves students with disabilities, shall review both the definition of "full time" and the maximum number of consecutive semesters of eligibility and adjust either or both as deemed reasonable and appropriate, based on the student's disability needs. In no case, however, shall "full time" mean fewer than six credit hours per semester and in no case shall eligibility extend beyond fourteen consecutive semesters."

## **Chapter 73 Section 4 Laws 2007**

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 689, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 74**

AN ACT

RELATING TO EDUCATION; MAKING CERTAIN MILITARY DEPENDENTS OF NEW MEXICO RESIDENTS ELIGIBLE FOR STATE-FUNDED FINANCIAL AID; PROVIDING FOR THE ISSUANCE OF A NEW MEXICO HIGH SCHOOL DIPLOMA TO CERTAIN MILITARY DEPENDENTS.

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

## **Chapter 74 Section 1 Laws 2007**

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

"HIGH SCHOOL DIPLOMA--RESIDENT MILITARY DEPENDENTS.--

A. A New Mexico resident high school student who is required to move out of state because the student's parent is a member of the New Mexico national guard or a branch of the armed forces of the United States and the parent is transferred to an out-of-state location may receive a New Mexico high school diploma under the following conditions:

(1) the student was a New Mexico resident and was regularly enrolled in a New Mexico high school prior to the parent being transferred to an out-of-state location;

(2) the student's parent notified the school district of the move and that the parent and student were retaining their New Mexico residency;

(3) the student transferred to and immediately enrolled in a high school at the new location and received high school credits that meet or exceed New Mexico's requirements for graduation; and

(4) the student has not graduated from high school or received a diploma, general educational development certificate or any other certification of high school completion or its equivalent.

B. A student who meets the conditions of Subsection A of this section may request the New Mexico school district from which the student transferred to grant a high school diploma. The student shall include with the request for a New Mexico high school diploma:

(1) certification by the parent, and the student if over the age of eighteen, that the parent and student maintained their New Mexico residency;

(2) a transcript from the high school the student attended and a description of the course units to be transferred; and

(3) any other information the school district requires to review the request.

C. The school district shall review the student's high school transcript from the school the student transferred to and determine if the courses and grades meet or exceed New Mexico's requirements for graduation. If the transcript meets New Mexico standards, the school district shall grant the student a high school diploma."

for Senate Bill 687

Approved March 29, 2007

## **LAWS 2007, CHAPTER 75**

AN ACT

RELATING TO HIGHER EDUCATION; CREATING THE STUDENTS WITH DISABILITIES SCHOLARSHIP ACT; PROVIDING POWERS AND DUTIES; CREATING A FUND.

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

### **Chapter 75 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "Students with Disabilities Scholarship Act".

### **Chapter 75 Section 2 Laws 2007**

Section 2. PURPOSE OF ACT.--The purpose of the Students with Disabilities Scholarship Act is to increase undergraduate enrollment of students with disabilities by establishing a scholarship program for those students in New Mexico's public post-secondary educational institutions.

### **Chapter 75 Section 3 Laws 2007**

Section 3. DEFINITIONS.--As used in the Students with Disabilities Scholarship Act:

A. "award recipient" means a student with disabilities who receives an undergraduate scholarship;

B. "department" means the higher education department;

C. "secretary" means secretary of higher education; and

D. "student with disabilities" means a student who has a record of a physical or mental condition that substantially limits one or more major life activities, including attention deficit disorder or other specific learning disabilities that the department recognizes as disabilities.

### **Chapter 75 Section 4 Laws 2007**

#### Section 4. CONDITIONS FOR ELIGIBILITY AND QUALIFICATION--

##### AWARDS.--

A. The department shall administer the Students with Disabilities Act and shall promulgate rules to carry out the provisions of that act.

B. A student with disabilities may be awarded a scholarship pursuant to the Students with Disabilities Act if the student:

(1) is a resident of New Mexico for the purpose of tuition payment;

(2) has not earned a baccalaureate degree and is enrolled or will be enrolled at least half time in a degree program in a public post-secondary educational institution in New Mexico at the time the scholarship is awarded; and

(3) has complied with other rules promulgated by the department to carry out the provisions of that act.

C. The department shall allocate money to public post-secondary educational institutions for scholarships for qualified students with disabilities based on the percentage of the institution's students classified as students with disabilities.

D. Public post-secondary educational institutions shall make awards to qualifying students in an amount not to exceed one thousand dollars (\$1,000) per semester as determined by rule of the department; provided that an award shall not exceed the actual cost of educational expenses.

E. Money for an awarded scholarship shall be placed in an account at the public post-secondary educational institution in the name of the student, and the money may be drawn upon to pay educational expenses charged by the institution, including tuition, fees, books and course supplies.

#### **Chapter 75 Section 5 Laws 2007**

Section 5. DURATION OF SCHOLARSHIP.--Each scholarship is for a period of one semester. A scholarship may be renewed, provided the award recipient continues to meet the conditions of eligibility, until the award recipient has graduated from an eligible four-year public post-secondary educational institution.

#### **Chapter 75 Section 6 Laws 2007**

Section 6. TERMINATION OF SCHOLARSHIP.--A scholarship is terminated upon occurrence of one or more of the following:

A. withdrawal of the award recipient from the public post-secondary educational institution or failure to remain as at least a half-time student;

B. failure of the award recipient to achieve satisfactory academic progress; or

C. substantial noncompliance by the award recipient with the Students with Disabilities Scholarship Act or the rules promulgated pursuant to that act.

## **Chapter 75 Section 7 Laws 2007**

Section 7. FUND CREATED.--The "students with disabilities scholarship fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations and income from investment of the fund. The department shall administer the fund and, subject to appropriation by the legislature, shall provide scholarships to students with disabilities as provided in the Students with Disabilities Scholarship Act. Expenditures from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary or the secretary's authorized representative.

## **Chapter 75 Section 8 Laws 2007**

Section 8. REPORT.--

A. Each public post-secondary educational institution shall submit an annual students with disabilities scholarship report to the department that includes information required by the department. The department shall submit an annual report to the legislative finance committee and to the legislative education study committee.

B. The department and public post-secondary educational institutions shall cooperate in data collection and data sharing and for other matters necessary to carry out the provisions of the Students with Disabilities Scholarship Act.

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House Bill 518, as amended

Approved March 29, 2007

# **LAWS 2007, CHAPTER 76**

AN ACT

RELATING TO HIGHER EDUCATION; CREATING THE STUDENTS WITH DISABILITIES SCHOLARSHIP ACT; PROVIDING POWERS AND DUTIES; CREATING A FUND.

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

### **Chapter 76 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "Students with Disabilities Scholarship Act".

### **Chapter 76 Section 2 Laws 2007**

Section 2. PURPOSE OF ACT.--The purpose of the Students with Disabilities Scholarship Act is to increase undergraduate enrollment of students with disabilities by establishing a scholarship program for those students in New Mexico's public post-secondary educational institutions.

### **Chapter 76 Section 3 Laws 2007**

Section 3. DEFINITIONS.--As used in the Students with Disabilities Scholarship Act:

A. "award recipient" means a student with disabilities who receives an undergraduate scholarship;

B. "department" means the higher education department;

C. "secretary" means secretary of higher education; and

D. "student with disabilities" means a student who has a record of a physical or mental condition that substantially limits one or more major life activities, including attention deficit disorder or other specific learning disabilities that the department recognizes as disabilities.

### **Chapter 76 Section 4 Laws 2007**

Section 4. CONDITIONS FOR ELIGIBILITY AND QUALIFICATION--AWARDS.--

A. The department shall administer the Students with Disabilities Act and shall promulgate rules to carry out the provisions of that act.

B. A student with disabilities may be awarded a scholarship pursuant to the Students with Disabilities Act if the student:

(1) is a resident of New Mexico for the purpose of tuition payment;

(2) has not earned a baccalaureate degree and is enrolled or will be enrolled at least half time in a degree program in a public post-secondary educational institution in New Mexico at the time the scholarship is awarded; and

(3) has complied with other rules promulgated by the department to carry out the provisions of that act.

C. The department shall allocate money to public post-secondary educational institutions for scholarships for qualified students with disabilities based on the percentage of the institution's students classified as students with disabilities.

D. Public post-secondary educational institutions shall make awards to qualifying students in an amount not to exceed one thousand dollars (\$1,000) per semester as determined by rule of the department; provided that an award shall not exceed the actual cost of educational expenses.

E. Money for an awarded scholarship shall be placed in an account at the public post-secondary educational institution in the name of the student, and the money may be drawn upon to pay educational expenses charged by the institution, including tuition, fees, books and course supplies.

## **Chapter 76 Section 5 Laws 2007**

Section 5. DURATION OF SCHOLARSHIP.--Each scholarship is for a period of one semester. A scholarship may be renewed, provided the award recipient continues to meet the conditions of eligibility, until the award recipient has graduated from an eligible four-year public post-secondary educational institution.

## **Chapter 76 Section 6 Laws 2007**

Section 6. TERMINATION OF SCHOLARSHIP.--A scholarship is terminated upon occurrence of one or more of the following:

A. withdrawal of the award recipient from the public post-secondary educational institution or failure to remain as at least a half-time student;

B. failure of the award recipient to achieve satisfactory academic progress; or

C. substantial noncompliance by the award recipient with the Students with Disabilities Scholarship Act or the rules promulgated pursuant to that act.

## **Chapter 76 Section 7 Laws 2007**

Section 7. FUND CREATED.--The "students with disabilities scholarship fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations and income from investment of the fund. The

department shall administer the fund and, subject to appropriation by the legislature, shall provide scholarships to students with disabilities as provided in the Students with Disabilities Scholarship Act. Expenditures from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary or the secretary's authorized representative.

## **Chapter 76 Section 8 Laws 2007**

### Section 8. REPORT.--

A. Each public post-secondary educational institution shall submit an annual students with disabilities scholarship report to the department that includes information required by the department. The department shall submit an annual report to the legislative finance committee and to the legislative education study committee.

B. The department and public post-secondary educational institutions shall cooperate in data collection and data sharing and for other matters necessary to carry out the provisions of the Students with Disabilities Scholarship Act.

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Senate Bill 537, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 77**

### AN ACT

RELATING TO EDUCATION; AMENDING THE ALLIED HEALTH STUDENT LOAN FOR SERVICE ACT TO INCLUDE A DENTAL HYGIENIST.

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

## **Chapter 77 Section 1 Laws 2007**

Section 1. Section 21-22C-3 NMSA 1978 (being Laws 1994, Chapter 57, Section 5, as amended) is amended to read:

"21-22C-3. DEFINITIONS.--As used in the Allied Health Student Loan for Service Act:

A. "allied health profession" means physical therapy, occupational therapy, speech-language pathology, audiology, pharmacy, nutrition, respiratory care, laboratory technology, radiologic technology, dental hygiene, mental health services, emergency

medical services or a licensed or certified health profession as defined by the department;

B. "department" means the higher education department;

C. "loan" means a grant of money to defray the costs incidental to an allied health profession education, under a contract between the department and an allied health profession student, requiring repayment with services or repayment of principal and interest; and

D. "student" means a resident of New Mexico who is enrolled in an accredited program for one of the allied health professions."

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House Bill 881

Approved March 29, 2007

## **LAWS 2007, CHAPTER 78**

AN ACT

RELATING TO LIQUOR; ENACTING A NEW SECTION OF THE LIQUOR CONTROL ACT TO ALLOW CUSTOMERS TO REMOVE A PARTIALLY CONSUMED BOTTLE OF WINE FROM A RESTAURANT THAT IS A LICENSED PREMISES.

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

### **Chapter 78 Section 1 Laws 2007**

Section 1. A new section of the Liquor Control Act is enacted to read:

"PARTIALLY CONSUMED BOTTLE OF WINE--LICENSED PREMISES.--

A. Notwithstanding any other provision of law, a dispenser, canopy licensee or restaurant licensee may permit a customer of the licensee to remove from the licensed premises one opened bottle of partially consumed wine; provided that:

(1) the customer has purchased a full-course meal and a bottle of wine and consumed a portion of the bottle of wine with the meal on the licensed premises; and

(2) the dispenser, canopy licensee or restaurant licensee or an agent or employee of the dispenser, canopy licensee or restaurant licensee attaches

the customer receipt issued for the bottle of wine and reseals the bottle of partially consumed wine by reinserting a cork and sealing the bottle in a tamper-proof bag.

B. When operating a motor vehicle, the customer shall possess and transport the partially consumed bottle of wine in accordance with Section 66-8-138 NMSA 1978."

## **Chapter 78 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 124

Approved March 29, 2007

## **LAWS 2007, CHAPTER 79**

AN ACT

RELATING TO PROFESSIONAL AND OCCUPATIONAL LICENSES; PROVIDING FOR BONDING AND BACKGROUND CHECKS; CHANGING LICENSING FEES; REVISING THE DISPOSITION OF THE PHARMACY FUND; AMENDING SECTIONS OF THE PHARMACY ACT.

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

## **Chapter 79 Section 1 Laws 2007**

Section 1. Section 61-11-14 NMSA 1978 (being Laws 1969, Chapter 29, Section 13, as amended) is amended to read:

"61-11-14. PHARMACY LICENSURE--WHOLESALE DRUG DISTRIBUTION BUSINESS LICENSURE--REQUIREMENTS--FEES--REVOCATION.--

A. Any person who desires to operate or maintain the operation of a pharmacy or who engages in a wholesale drug distribution business in this state shall apply to the board for the proper license and shall meet the requirements of the board and pay the fee for the license and its renewal.

B. The board shall issue the following classes of licenses that shall be defined and limited by regulation of the board:

(1) retail pharmacy;

- (2) nonresident pharmacy;
- (3) wholesale drug distributor;
- (4) drug manufacturer;
- (5) hospital pharmacy;
- (6) industrial health clinic;
- (7) community health clinic;
- (8) department of health public health offices;
- (9) custodial care facility;
- (10) home care services;
- (11) emergency medical services;
- (12) animal control facilities;

(13) wholesaler, retailer or distributor of veterinary drugs bearing the legend: "caution: federal law restricts this drug to use by or on the order of a licensed veterinarian". Such drugs may be sold or dispensed by any person possessing a retail pharmacy license, wholesale drug distributor's license or drug manufacturer's license issued by the board, without the necessity of acquiring an additional license for veterinary drugs;

- (14) returned drugs processors;
- (15) drug research facilities;
- (16) drug warehouses;
- (17) contact lens sellers;
- (18) medicinal gas repackagers; and
- (19) medicinal gas sellers.

C. Every application for the issuance or biennial renewal of:

(1) a license for a retail pharmacy, nonresident pharmacy, hospital pharmacy or drug research facility shall be accompanied by a fee set by the board in an amount not to exceed three hundred dollars (\$300) per year;

(2) a license for a wholesale drug distributor, drug manufacturer or drug warehouse shall be accompanied by a fee not to exceed one thousand dollars (\$1,000) per year;

(3) a license for a custodial care facility or a returned drugs processor business shall be accompanied by a fee set by the board in an amount not to exceed two hundred dollars (\$200) per year; and

(4) a license for an industrial health clinic; a community health clinic; a department of health public health office; home care services; emergency medical services; animal control facilities; or wholesaler, retailer or distributor of veterinary drugs shall be accompanied by a fee set by the board in an amount not to exceed two hundred dollars (\$200) per year.

D. If it is desired to operate or maintain a pharmaceutical business at more than one location, a separate license shall be obtained for each location.

E. Each application for a license shall be made on forms prescribed and furnished by the board.

F. Any person making application to the board for a license to operate a facility or business listed in Subsection B of this section in this state shall submit to the board an application for licensure indicating:

(1) the name under which the business is to be operated;

(2) the address of each location to be licensed and the address of the principal office of the business;

(3) in the case of a retail pharmacy, the name and address of the owner, partner or officer or director of a corporate owner;

(4) the type of business to be conducted at each location;

(5) a rough drawing of the floor plan of each location to be licensed;

(6) the proposed days and hours of operation of the business; and

(7) other information the board may require, including a criminal background check and financial history, provided that manufacturers distributing their own products that have been licensed or approved by the food and drug administration shall be exempt from criminal background check and financial history requirements pursuant to this section.

G. After preliminary approval of the application for a license for any facility or business listed in Paragraphs (1) through (8) and (10) through (19) of Subsection B of

this section, a request for an inspection, together with an inspection fee not to exceed two hundred dollars (\$200), shall be submitted to the board for each business location, and an inspection shall be made of each location by the board or its agent.

H. Following a deficiency-free inspection, the executive director of the board may issue a temporary license to the applicant. The temporary license shall expire at the close of business on the last day of the next regular board meeting.

I. Licenses, except temporary licenses provided pursuant to Subsection H of this section, issued by the board pursuant to this section are not transferable and shall expire on the expiration date set by the board unless renewed. Any person failing to renew a license on or before the expiration date set by the board shall not have the license reinstated except upon reapplication and payment of a reinstatement fee set by the board in an amount not to exceed one hundred dollars (\$100) and all delinquent renewal fees.

J. The board, after notice and a refusal or failure to comply, may suspend or revoke any license issued under the provisions of the Pharmacy Act at any time examination or inspection of the operation for which the license was granted discloses that the operation is not being conducted according to law or regulations of the board.

K. Pharmaceutical sales representatives who carry dangerous drugs shall provide the board with a written statement from the representative's employer that describes the employer's policy relating to the safety and security of the handling of dangerous drugs and to the employer's compliance with the federal Prescription Drug Marketing Act of 1987. Pharmaceutical sales representatives are not subject to the licensing provisions of the Pharmacy Act."

## **Chapter 79 Section 2 Laws 2007**

Section 2. Section 61-11-19 NMSA 1978 (being Laws 1969, Chapter 29, Section 18, as amended) is amended to read:

"61-11-19. FUND ESTABLISHED--DISPOSITION--METHOD OF PAYMENT.--

A. There is established in the state treasury the "pharmacy fund".

B. All funds received by the board and all money collected under the Pharmacy Act or any other act administered by the board shall be deposited with the state treasurer for credit to the pharmacy fund.

C. Payments from the pharmacy fund shall be made upon warrants of the secretary of finance and administration on vouchers issued in accordance with the budget approved by the department of finance and administration.

D. Amounts paid into the pharmacy fund prior to October 1, 2005 pursuant to Paragraph (2) of Subsection C of Section 61-11-14 NMSA 1978 shall be used for a prescription drug program for persons over the age of sixty-five; provided that the board enters into an arrangement with a state agency or a state-created entity for the operation of the program.

E. All amounts paid into the pharmacy fund shall only be used for the purpose of meeting necessary expenses incurred in the enforcement of the purposes of the Pharmacy Act and any other acts administered by the board, the duties imposed thereby and the promotion of pharmacy education and standards in this state. All money unused at the end of the fiscal year shall remain in the pharmacy fund for use in accordance with the provisions of the Pharmacy Act.

F. All funds that may have accumulated to the credit of the pharmacy fund shall be continued for use by the board in administration of the Pharmacy Act."

### **Chapter 79 Section 3 Laws 2007**

Section 3. A new section of the Pharmacy Act is enacted to read:

"CRIMINAL BACKGROUND CHECKS.--

A. The board may adopt rules that provide for criminal background checks for all new licensees to include:

(1) requiring criminal history background checks of applicants for licensure pursuant to the Pharmacy Act;

(2) requiring applicants for licensure to be fingerprinted;

(3) providing for an applicant who has been denied licensure to inspect or challenge the validity of the background check record;

(4) establishing a fingerprint and background check fee not to exceed seventy-five dollars (\$75.00) to be paid by the applicant; and

(5) providing for submission of an applicant's fingerprint cards to the federal bureau of investigation to conduct a national criminal history background check and to the department of public safety to conduct a state criminal history check.

B. Arrest record information received from the department of public safety and the federal bureau of investigation shall be privileged and shall not be disclosed to persons not directly involved in the decision affecting the applicant.

C. Electronic live fingerprint scans may be used when conducting criminal history background checks."

## **Chapter 79 Section 4 Laws 2007**

Section 4. A new section of the Pharmacy Act is enacted to read:

"SURETY BONDS.--

A. The board may require surety bonds or other equivalent means of security, as approved by the board, that are provided by a third party such as insurance, an irrevocable letter of credit or funds deposited in a trust account or financial institution, to secure payment for any administrative or judicial penalties that may be imposed by the board or the state and for any penalties or costs required by board rule or disciplinary action.

B. Surety bonds or other equivalent means of security as approved by the board and required in this section shall apply to initial applicants or renewal applicants as a condition for obtaining or maintaining licensure as a nonresident pharmacy or wholesale drug distributor.

C. The board shall set by rule the amount and conditions of the surety bond or other equivalent means of security authorized in this section.

D. The board may waive the surety bond or other requirements of this section if it determines that it is in the best interest of the public to do so. Such waivers may be granted under conditions established by board rule.

E. Manufacturers distributing their own products that have been licensed or approved by the food and drug administration and pharmacy warehouses that are engaged only in intracompany transfers are exempt from this section.

F. A separate surety bond or other equivalent means of security is not required for each company's separate locations or for affiliated companies or groups when such separate locations or affiliated companies or groups are required to apply for or renew their wholesale distributor license with the board."

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House Bill 314, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 80**

AN ACT

RELATING TO TAXATION; ADDING CERTAIN COUNTIES TO THOSE CURRENTLY ELIGIBLE TO IMPOSE A LOCAL HOSPITAL GROSS RECEIPTS TAX.

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

## **Chapter 80 Section 1 Laws 2007**

Section 1. Section 7-20C-2 NMSA 1978 (being Laws 1991, Chapter 176, Section 2, as amended) is amended to read:

"7-20C-2. DEFINITIONS.--As used in the Local Hospital Gross Receipts Tax Act:

A. "county" means:

(1) a class B county having a population of less than twenty-five thousand according to the most recent federal decennial census and having a net taxable value for rate-setting purposes for the 1990 property tax year or any subsequent year of more than two hundred fifty million dollars (\$250,000,000);

(2) a class B county having a population of less than forty-seven thousand but more than forty-four thousand according to the 1990 federal decennial census and having a net taxable value for rate-setting purposes for the 1992 property tax year of more than three hundred million dollars (\$300,000,000) but less than six hundred million dollars (\$600,000,000);

(3) a class B county having a population of less than ten thousand according to the most recent federal decennial census and having a net taxable value for rate-setting purposes for the 1990 property tax year or any subsequent year of more than one hundred million dollars (\$100,000,000);

(4) a class B county having a population of less than twenty-five thousand according to the 1990 federal decennial census and having a net taxable value for rate-setting purposes for the 1993 property tax year of more than ninety-one million dollars (\$91,000,000) but less than one hundred twenty-five million dollars (\$125,000,000);

(5) a class B county having a population of more than seventeen thousand but less than twenty thousand according to the 1990 federal decennial census and having a net taxable value for rate-setting purposes for the 1993 property tax year of more than one hundred fifty-three million dollars (\$153,000,000) but less than one hundred fifty-six million dollars (\$156,000,000);

(6) a class B county having a population of more than fifteen thousand according to the 1990 federal decennial census and having a net taxable value for rate-setting purposes for the 1996 property tax year of more than one hundred fifty million dollars (\$150,000,000) but less than one hundred seventy-five million dollars (\$175,000,000);

(7) an H class county;

(8) a class A county having a population of less than one hundred fifteen thousand according to the 2000 federal decennial census or any subsequent federal decennial census and having a net taxable value for rate-setting purposes for the 2001 property tax year or any subsequent year of more than three billion dollars (\$3,000,000,000); or

(9) a class B county having a population of more than three thousand five hundred but less than ten thousand five hundred according to the 2000 federal decennial census or any subsequent federal decennial census and having a net taxable value for rate-setting purposes for the 2005 property tax year or any subsequent year of more than one hundred million dollars (\$100,000,000) and less than one hundred sixteen million five hundred thousand dollars (\$116,500,000);

B. "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;

C. "governing body" means the board of county commissioners of a county;

D. "health care facilities contract" means an agreement between a hospital or health clinic not owned by the county and a county imposing the tax authorized by the Local Hospital Gross Receipts Tax Act that obligates the county to pay to the hospital revenue generated by the tax authorized in that act as consideration for the agreement by the hospital or health clinic to use the funds only for nonsectarian purposes and to make health care services available for the benefit of the county;

E. "hospital facility revenues" means all or a portion of the revenues derived from a lease of a hospital facility acquired, constructed or equipped pursuant to and operated in accordance with the Local Hospital Gross Receipts Tax Act;

F. "local hospital gross receipts tax" means the tax authorized to be imposed under the Local Hospital Gross Receipts Tax Act;

G. "person" means an individual or any other legal entity; and

H. "state gross receipts tax" means the gross receipts tax imposed under the Gross Receipts and Compensating Tax Act."

## **Chapter 80 Section 2 Laws 2007**

Section 2. Section 7-20C-3 NMSA 1978 (being Laws 1991, Chapter 176, Section 3, as amended) is amended to read:

"7-20C-3. LOCAL HOSPITAL GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

A. A majority of the members elected to the governing body of a county may enact an ordinance imposing an excise tax on a person engaging in business in the county for the privilege of engaging in business. This tax is to be referred to as the "local hospital gross receipts tax". The rate of the tax shall be:

(1) one-half of one percent of the gross receipts of the person engaging in business if the tax is initially imposed before January 1, 1993;

(2) one-eighth of one percent of the gross receipts of the person engaging in business if the tax is initially imposed after January 1, 1993; and

(3) a rate not to exceed one-half of one percent of the gross receipts of the person engaging in business if the tax is imposed after July 1, 1996 in a county described in Paragraph (4), (6), (7), (8) or (9) of Subsection A of Section 7-20C-2 NMSA 1978; provided the tax may be imposed in any number of increments of one-eighth percent not to exceed an aggregate rate of one-half of one percent of gross receipts.

B. The local hospital gross receipts tax imposed initially before January 1, 1993 shall be imposed only once for the period necessary for payment of the principal and interest on revenue bonds issued to accomplish the purpose for which the revenue is dedicated, but the period shall not exceed ten years from the effective date of the ordinance imposing the tax. The local hospital gross receipts tax imposed after July 1, 1996 in a county described in Paragraph (4) or (8) of Subsection A of Section 7-20C-2 NMSA 1978 shall be imposed only once for the period necessary for payment of the principal and interest on revenue bonds issued to accomplish the purpose for which the revenue is dedicated, but the period shall not exceed forty years from the effective date of the ordinance imposing the tax.

C. No local hospital gross receipts tax authorized in Subsection A of this section shall be imposed initially after January 1, 1993 in a county described in Paragraph (2), (3) or (5) of Subsection A of Section 7-20C-2 NMSA 1978 unless:

(1) in a county described in Paragraph (2) of Subsection A of Section 7-20C-2 NMSA 1978, the voters of the county have approved the issuance of general obligation bonds of the county sufficient to pay at least one half of the costs of the county hospital facility or county twenty-four-hour urgent care or emergency facility for which the local hospital gross receipts tax revenues are dedicated, including the costs of all acquisition, renovation and equipping of the facility; or

(2) in a county described in Paragraph (3) or (5) of Subsection A of Section 7-20C-2 NMSA 1978, the county will not have in effect at the same time a county hospital emergency gross receipts tax and the voters of the county have approved the imposition of a property tax at a rate of one dollar (\$1.00) on each one thousand dollars (\$1,000) of taxable value of property in the county for the purpose of operation and maintenance of a hospital owned by the county and operated and maintained either by the county or by another party pursuant to a lease with the county.

D. The governing body of a county enacting an ordinance imposing a local hospital gross receipts tax shall dedicate the revenue from the tax as provided in this subsection. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated and the revenue shall be used by the county for that purpose. The revenue shall be dedicated as follows:

(1) prior to January 1, 1993, the governing body, at the time of enacting an ordinance imposing the rate of the tax authorized in Subsection A of this section, shall dedicate the revenue for acquisition of land for and the design, construction, equipping and furnishing of a county hospital facility to be operated by the county or operated and maintained by another party pursuant to a lease with the county;

(2) if the governing body of a county described in Paragraph (2), (3) or (5) of Subsection A of Section 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax after July 1, 1993, the governing body shall dedicate the revenue for acquisition, renovation and equipping of a building for a county hospital facility or a county twenty-four-hour urgent care or emergency facility or for operation and maintenance of that facility, whether operated and maintained by the county or by another party pursuant to a lease or management contract with the county, for the period of time the tax is imposed not to exceed ten years;

(3) if the governing body of a county described in Paragraph (4) or (8) of Subsection A of Section 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax after July 1, 1995, the governing body shall dedicate the revenue for acquisition of land or buildings for and the renovation, design, construction, equipping or furnishing of a county hospital facility or health clinic to be operated by the county or operated and maintained by another party pursuant to a health care facilities contract, lease or management contract with the county;

(4) if the governing body of a county described in Paragraph (6) or (9) of Subsection A of Section 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax after July 1, 1997, the governing body shall dedicate the revenue for either or a combination of the following:

(a) acquisition of land or buildings for and the design, construction, renovation, equipping or furnishing of a hospital facility or health clinic owned by the county or a hospital or health clinic with whom the county has entered into a health care facilities contract, lease or management contract; or

(b) operations and maintenance of a hospital or health clinic owned by the county or a hospital or health clinic with whom the county has entered into a health care facilities contract, lease or management contract; and

(5) if the governing body of a county described in Paragraph (7) of Subsection A of Section 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax after January 1, 2002, the governing body shall dedicate the revenue for acquisition,

lease, renovation or equipping of a hospital facility or for operation and maintenance of that facility, whether operated and maintained by the county or by another party pursuant to a health care facilities contract, lease or management contract with the county.

E. The ordinance shall not go into effect until after an election is held and a simple majority of the qualified electors of the county voting in the election vote in favor of imposing the local hospital gross receipts tax and, in the case of a county described in Paragraph (3) or (5) of Subsection A of Section 7-20C-2 NMSA 1978, also vote in favor of a property tax at a rate of one dollar (\$1.00) for each one thousand dollars (\$1,000) of taxable value of property in the county. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the qualified electors and voted on as a separate question in a general election or in any special election called for that purpose by the governing body. A special election on the question shall be called, held, conducted and canvassed in substantially the same manner as provided by law for general elections. If the question of imposing a local hospital gross receipts tax fails or if the question of imposing both a local hospital gross receipts tax and a property tax fails, the governing body shall not again propose a local hospital gross receipts tax for a period of one year after the election. A certified copy of any ordinance imposing a local hospital gross receipts tax shall be mailed to the department within five days after the ordinance is adopted in an election called for that purpose.

F. An ordinance enacted pursuant to the provisions of Subsection A of this section shall include an effective date of either July 1 or January 1, whichever date occurs first after the expiration of at least three months from the date the ordinance is approved by the electorate.

G. An ordinance repealed under the provisions of the Local Hospital Gross Receipts Tax Act shall be repealed effective on either July 1 or January 1.

H. As used in this section, "taxable value of property" means the sum of:

(1) the net taxable value, as that term is defined in the Property Tax Code, of property subject to taxation under the Property Tax Code;

(2) the assessed value of products, as those terms are defined in the Oil and Gas Ad Valorem Production Tax Act;

(3) the assessed value of equipment, as those terms are defined in the Oil and Gas Production Equipment Ad Valorem Tax Act; and

(4) the taxable value of copper mineral property, as those terms are defined in the Copper Production Ad Valorem Tax Act, subject to taxation under the Copper Production Ad Valorem Tax Act."

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House Bill 329, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 81**

AN ACT

RELATING TO DOMESTIC AFFAIRS; AMENDING THE FAMILY VIOLENCE PROTECTION ACT; REQUIRING THAT ORDERS OF PROTECTION ISSUED BY THE COURT BE ENTERED IN A DATABASE.

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

### **Chapter 81 Section 1 Laws 2007**

Section 1. Section 40-13-6 NMSA 1978 (being Laws 1987, Chapter 286, Section 6, as amended) is amended to read:

"40-13-6. SERVICE OF ORDER--DURATION--PENALTY--REMEDIES NOT EXCLUSIVE.--

A. An order of protection granted under the Family Violence Protection Act shall be filed with the clerk of the court, and a copy shall be sent by the clerk to the local law enforcement agency. The order shall be personally served upon the respondent, unless the respondent or the respondent's attorney was present at the time the order was issued. The order shall be filed and served without cost to the petitioner.

B. The local law enforcement agency receiving an order of protection from the clerk of the court that was issued under the Family Violence Protection Act shall have the order entered in the national crime information center's order of protection file within seventy-two hours of receipt. This does not include temporary orders of protection under the provisions of Section 40-13-4 NMSA 1978.

C. An order of protection granted by the court involving custody or support shall be effective for a fixed period of time not to exceed six months. The order may be extended for good cause upon motion of the petitioner for an additional period of time not to exceed six months. Injunctive orders shall continue until modified or rescinded upon motion by either party or until the court approves a subsequent consent agreement entered into by the petitioner and the respondent.

D. A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order pursuant to this section.

E. State courts shall give full faith and credit to tribal court orders of protection and orders of protection issued by courts of other states. A protection order issued by a state or tribal court against one who has petitioned, filed a complaint or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if:

(1) no cross or counter petition, complaint or other written pleading was filed seeking such a protection order; or

(2) a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

F. A person convicted of violating an order of protection granted by a court under the Family Violence Protection Act is guilty of a misdemeanor and shall be sentenced in accordance with Section 31-19-1 NMSA 1978. Upon a second or subsequent conviction, an offender shall be sentenced to a jail term of not less than seventy-two consecutive hours that shall not be suspended, deferred or taken under advisement.

G. In addition to any other punishment provided in the Family Violence Protection Act, the court shall order a person convicted to make full restitution to the party injured by the violation of an order of protection and order the person convicted to participate in and complete a program of professional counseling, at the person's own expense, if possible.

H. In addition to charging the person with violating an order of protection, a peace officer shall file all other possible criminal charges arising from an incident of domestic abuse when probable cause exists.

I. The remedies provided in the Family Violence Protection Act are in addition to any other civil or criminal remedy available to the petitioner."

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House Bill 467, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 82**

AN ACT

RELATING TO WATER; PROVIDING FOR STATE ENGINEER ENFORCEMENT OF COMPLIANCE ORDERS.

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

## Chapter 82 Section 1 Laws 2007

Section 1. Section 72-2-18 NMSA 1978 (being Laws 2001, Chapter 143, Section 1) is amended to read:

"72-2-18. STATE ENGINEER--ENFORCEMENT--COMPLIANCE ORDERS--PENALTY.--

A. When a person, pursuant to a finding of fact, violates a requirement or prohibition of Chapter 72 NMSA 1978, a regulation, code, order or special order adopted by the state engineer pursuant to Section 72-2-8 NMSA 1978, a condition of a permit or license issued by the state engineer pursuant to law or an order entered by a court adjudicating a water right, the state engineer may, in addition to any other remedies available under law, issue a compliance order stating with reasonable specificity the nature of the violation and requiring compliance within a specified time period. A compliance order shall not be effective against any party other than the person against whom the compliance order is issued.

B. This section shall not be construed to affect or interfere with any jurisdiction of an irrigation district, conservancy district, a state court, a federal court or an Indian nation, tribe or pueblo to enforce its orders and decrees pertaining to water rights.

C. A compliance order may include an order to cease the violation of a requirement or prohibition of Chapter 72 NMSA 1978, a directive issued in accordance with the provisions of Section 72-2-8 NMSA 1978, a condition of a permit or license issued by the state engineer or an order entered by a court adjudicating a water right.

D. The state engineer shall provide an opportunity for the person named in the compliance order to have a hearing on the alleged violation pursuant to Section 72-2-16 NMSA 1978. A hearing shall be held if a written request is made to the state engineer within thirty days after receipt of the notice of the compliance order sent by certified mail. A compliance order issued pursuant to this section shall become final unless the person named in the order submits a written request for a hearing to the state engineer within thirty days of receipt of the order. A compliance order shall be enforceable only upon becoming final. Nothing in this section shall prohibit the person named in the order from pursuing an informal resolution of the matter after a timely request for hearing has been made.

E. A compliance order may require repayment of water that was overdiverted or illegally diverted. Repayment of water may be up to double the amount of the overdiversion or illegal diversion. In determining the repayment of water beyond the amount overdiverted or illegally diverted, the state engineer shall take into consideration the seriousness of the violation, any good faith efforts to comply with the applicable requirements and any other relevant factors. Any requirement to repay water shall not be enforceable until the compliance order becomes final. Installation of a measuring device may be required prior to any future diversion of water.

F. Any appeal to district court shall be conducted pursuant to Chapter 72, Article 7 NMSA 1978 and shall not stay enforcement of the compliance order unless ordered by the district court.

G. After a compliance order becomes final, the state engineer may assess a civil penalty of up to one hundred dollars (\$100) per day for violation of the compliance order. Any civil penalty assessed shall accrue from the date of assessment of the penalty.

H. If a person does not comply with a compliance order, the state engineer may file a civil action to enforce the compliance order and receive any of the remedies provided in this section, including injunctive relief."

## **Chapter 82 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is June 15, 2007.

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HOUSE FLOOR SUBSTITUTE FOR

House Bill 580, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 83**

AN ACT

RELATING TO LIBRARIES; ENACTING THE RURAL LIBRARY DEVELOPMENT ACT;  
PROVIDING POWERS AND DUTIES; CREATING A FUND.

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

## **Chapter 83 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "Rural Library Development Act".

## **Chapter 83 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the Rural Library Development Act:

A. "division" means the library division of the cultural affairs department; and

B. "rural library" means a public library in a municipality or unincorporated village, tribes, Indian nations, pueblos or community with a population of less than fifteen thousand as determined by the latest federal decennial census.

## **Chapter 83 Section 3 Laws 2007**

### **Section 3. RURAL LIBRARY DEVELOPMENT PROGRAM.--**

A. The division shall establish a rural library development program that provides grants-in-aid to:

(1) improve existing rural libraries' collections and services and provide resources to plan and establish new rural libraries;

(2) improve access to library materials and technology for rural citizens;

(3) connect rural libraries to communications networks, such as wire New Mexico and national lambdarail;

(4) provide professional development to librarians and other library staff in rural libraries; and

(5) provide support for rural libraries to participate in the New Mexico group catalog and the New Mexico library portal, a statewide resource-sharing network.

B. Municipalities and counties may apply for rural library development grants-in-aid to improve or connect a rural library and provide training and supplemental salaries not to exceed forty percent of compensation for a period not to exceed three years to rural librarians. A grant-in-aid may be awarded for qualifying rural libraries based on an application process developed by the division.

C. The division shall establish by rule the application and grant process to distribute available money equitably across the state. Priority shall be given to rural libraries that are:

(1) located more than twenty miles from a municipality with a population of greater than fifty thousand as determined by the latest federal decennial census; and

(2) being connected to wire New Mexico and national lambdarail.

## **Chapter 83 Section 4 Laws 2007**

**Section 4. RURAL LIBRARY DEVELOPMENT FUND--CREATED--PURPOSE.--**  
The "rural library development fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations; other revenue credited to the fund; gifts,

grants and donations to the fund; and income from investment of the fund. The fund shall be administered by the division, and money in the fund is subject to appropriation by the legislature to carry out the provisions of the Rural Library Development Act. No more than five percent of the fund each year may be used for administration. Disbursements from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the state librarian or the state librarian's authorized representative.

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House Bill 655, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 84**

AN ACT

RELATING TO MILITARY AFFAIRS; PROVIDING FOR THE ESTABLISHMENT OF MORALE, WELFARE AND RECREATION FACILITIES AT THE ONATE TRAINING CENTER COMPLEX IN SANTA FE; MAKING AN APPROPRIATION.

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

### **Chapter 84 Section 1 Laws 2007**

Section 1. ONATE TRAINING CENTER COMPLEX--MORALE, WELFARE AND RECREATION FACILITY--ESTABLISHMENT--POWERS AND DUTIES--PROCEEDS--AUDITS.--

A. As used in this section:

(1) "department" means the department of military affairs; and

(2) "facilities" means a post exchange, canteen, barber shop, fitness center, snack bar, transient housing, billeting operation, laundry or similar facility, the purpose of which is to enhance the morale and welfare of military personnel.

B. The department may establish "morale, welfare and recreation facilities" at the Onate training center complex in Santa Fe for use by:

(1) active and reserve component members of the armed forces of the United States;

(2) persons retired from the armed forces of the United States; and

(3) state and federal civilian employees assigned to the department.

C. The facilities shall be established in accordance with rules of the federal departments of the army and air force and the national guard governing nonappropriated fund morale, welfare and recreation activities. The department of military affairs shall adopt and promulgate rules to carry out the provisions of this section.

D. The facilities shall be:

(1) separate and apart from the state; and

(2) self-sufficient and shall not receive any appropriations from the legislature.

E. The department shall establish a system of bookkeeping and accounting for the proper handling of money derived from the operation of the facilities. The department shall establish bank accounts as necessary for the deposit of revenue from operation of the facilities. Money derived from operation of the facilities is not state money and shall not be commingled with money received by the department from state sources.

F. The department may contract for the operation of the facilities. Employees of the facilities are not state employees for any purpose.

G. No obligations or contracts of the facilities shall be considered to be obligations or contracts of the state.

H. The department shall require an annual independent audit each year of the facilities' operations and may require other audits as necessary. Audits shall be submitted to the state auditor and the legislative finance committee within ten days of receipt by the department.

I. Money derived from the operation of the facilities is appropriated to the department for the continued operation of the facilities and for the general welfare of members of the New Mexico national guard.

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House Business and Industry Committee

Substitute for House Bill 671

Approved March 29, 2007

## **LAWS 2007, CHAPTER 85**

## AN ACT

RELATING TO HIGHER EDUCATION; ALLOWING COLLEGE AFFORDABILITY SCHOLARSHIPS TO BE USED AT TRIBAL COLLEGES; DEFINING ELIGIBLE STUDENT; ADJUSTING DISTRIBUTIONS TO THE COLLEGE AFFORDABILITY SCHOLARSHIP FUND; MAKING AN APPROPRIATION.

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

### **Chapter 85 Section 1 Laws 2007**

Section 1. Section 21-21L-1 NMSA 1978 (being Laws 2005, Chapter 192, Section 1) is amended to read:

"21-21L-1. SHORT TITLE.--Chapter 21, Article 21L NMSA 1978 may be cited as the "College Affordability Act"."

### **Chapter 85 Section 2 Laws 2007**

Section 2. Section 21-21L-3 NMSA 1978 (being Laws 2005, Chapter 192, Section 3) is amended to read:

"21-21L-3. DEFINITIONS.--As used in the College Affordability Act:

A. "commission" or "department" means the higher education department;

B. "eligible student" means a New Mexico resident who is enrolled or enrolling at least half-time in a public post-secondary educational institution or tribal college at any time later than one hundred twenty days following high school graduation or the award of a general educational development certificate;

C. "scholarship" means a college affordability scholarship; and

D. "tribal college" means a tribally, federally or congressionally chartered post-secondary educational institution located in New Mexico that is accredited by the north central association of colleges and schools."

### **Chapter 85 Section 3 Laws 2007**

Section 3. Section 21-21L-4 NMSA 1978 (being Laws 2005, Chapter 192, Section 4) is amended to read:

"21-21L-4. CONDITIONS FOR ELIGIBILITY.--A scholarship may be awarded to an eligible student who:

A. has not earned a baccalaureate degree at the time the scholarship is awarded;

B. has demonstrated financial need consistent with the criteria promulgated by the department; and

C. has complied with other rules promulgated by the department to carry out the provisions of the College Affordability Act."

## **Chapter 85 Section 4 Laws 2007**

Section 4. Section 21-21L-5 NMSA 1978 (being Laws 2005, Chapter 192, Section 5) is amended to read:

"21-21L-5. SCHOLARSHIP AUTHORIZED--ADMINISTRATION--PREFERENCE IN SCHOLARSHIP AWARDS.--

A. The department shall administer the College Affordability Act and shall promulgate rules to carry out the provisions of that act.

B. Scholarships shall be awarded to qualified eligible students. Qualifications shall be determined by rule of the department.

C. The department shall allocate money to public post-secondary educational institutions and tribal colleges based on a student need formula calculated according to income reported on the free application for federal student aid and on the percentage of the institution's students classified as returning adults who are otherwise ineligible for state financial aid.

D. Public post-secondary educational institutions and tribal colleges shall make awards to qualifying eligible students based on financial need in an amount not to exceed one thousand dollars (\$1,000) per semester as determined by rule of the department.

E. Money for the scholarship shall be placed in an account at the public post-secondary educational institution or tribal college in the name of the eligible student, and the money may be drawn upon to pay educational expenses charged by the institution, including tuition, fees, books and course supplies."

## **Chapter 85 Section 5 Laws 2007**

Section 5. Section 21-21L-6 NMSA 1978 (being Laws 2005, Chapter 192, Section 6) is amended to read:

"21-21L-6. DURATION OF SCHOLARSHIP.--Each scholarship is for a period of one semester. A scholarship may be renewed, provided the eligible student continues to meet the conditions of eligibility, until the eligible student graduates from a four-year public post-

secondary educational institution."

## **Chapter 85 Section 6 Laws 2007**

Section 6. Section 21-21L-7 NMSA 1978 (being Laws 2005, Chapter 192, Section 7) is amended to read:

"21-21L-7. TERMINATION OF SCHOLARSHIP.--A scholarship is terminated upon occurrence of one or more of the following:

A. withdrawal of the eligible student from the public post-secondary educational institution or tribal college or failure to remain as at least a half-time student;

B. failure of the eligible student to achieve satisfactory academic progress; or

C. substantial noncompliance by the eligible student with the College Affordability Act or the rules promulgated pursuant to that act."

## **Chapter 85 Section 7 Laws 2007**

Section 7. Section 21-21L-8 NMSA 1978 (being Laws 2005, Chapter 192, Section 8) is amended to read:

"21-21L-8. FUNDS CREATED.--

A. The "college affordability endowment fund" is created as a nonreverting fund in the state treasury, consisting of appropriations; unspecified gifts, grants and donations to the fund; and income from investment of the fund except as provided in Subsection C of this section.

B. The "college affordability scholarship fund" is created as a nonreverting fund in the state treasury, consisting of income from investment of the fund and any specified distributions, appropriations, gifts, grants and donations to the fund. Money in the scholarship fund is appropriated to the department for scholarship awards as provided in the College Affordability Act. Expenditures from the scholarship fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of higher education or the secretary's authorized representative.

C. Until fifty percent of the annual income from investment of the college affordability endowment fund is equal to or exceeds two million dollars (\$2,000,000), an annual distribution of two million dollars (\$2,000,000) shall be made from the college

affordability endowment fund to the college affordability scholarship fund. Thereafter, until the corpus of the endowment fund is two hundred fifty million dollars (\$250,000,000), fifty percent of the income from investment of the fund shall be applied to the corpus of the fund and fifty percent shall be distributed annually to the scholarship fund. After the corpus of the endowment fund is two hundred fifty million dollars (\$250,000,000), all of the income from investment of the fund shall be distributed to the college affordability scholarship fund."

## **Chapter 85 Section 8 Laws 2007**

Section 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 308, as amended

Approved March 29, 2007

## **LAWS 2007, CHAPTER 86**

AN ACT

RELATING TO FINANCIAL TRANSACTIONS; PROVIDING FOR THE LIMITATION OF FEES AND REGULATION OF PAYDAY LOANS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

## **Chapter 86 Section 1 Laws 2007**

Section 1. Section 14-7-1 NMSA 1978 (being Laws 1977, Chapter 291, Section 1, as amended) is amended to read:

"14-7-1. REQUIRING NOTICE OF INTENT TO GAIN ACCESS TO RECORDS OF FINANCIAL INSTITUTIONS.--

A. At least seven days prior to a state agency, board or commission requesting or gaining access to or copies of the records of a person, corporation, company or organization maintained by a bank, savings and loan association, small loan company or other similar financial institution, the agency, board or commission shall notify by certified or registered mail the person, corporation, company or other organization of its intent to gain access or acquire such records.

B. The requirement of notice set forth in Subsection A of this section shall not apply to the audit of, compliance monitoring of or preparation of reports concerning any bank, savings and loan association, small loan company or other similar financial institution by a state agency, when conducted pursuant to the agency's statutory directive.

C. The provisions of Subsection A of this section shall not apply to requests for records made pursuant to an administrative subpoena. In such instances, at least twenty-four hours' notice shall be given to the person, corporation, company or organization."

## **Chapter 86 Section 2 Laws 2007**

Section 2. Section 58-15-2 NMSA 1978 (being Laws 1955, Chapter 128, Section 2, as amended) is amended to read:

"58-15-2. DEFINITIONS.--The following words and terms when used in the New Mexico Small Loan Act of 1955 have the following meanings unless the context clearly requires a different meaning. The meaning ascribed to the singular form applies also to the plural:

A. "consumer" means a person who enters into a loan agreement and receives the loan proceeds in New Mexico;

B. "debit authorization" means an authorization signed by a consumer to electronically transfer or withdraw funds from the consumer's account for the specific purpose of repaying a loan;

C. "department" or "division" means the financial institutions division of the regulation and licensing department;

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

E. "installment loan" means a loan that is to be repaid in a minimum of four successive substantially equal payment amounts to pay off a loan in its entirety with a period of no less than one hundred twenty days to maturity. "Installment loan" does not mean a loan in which a licensee requires, as a condition of making the loan, the use of post-dated checks or debit authorizations for repayment of that loan;

F. "license" means a permit issued under the authority of the New Mexico Small Loan Act of 1955 to make loans and collect charges therefor strictly in accordance with the provisions of that act at a single place of business. It shall constitute and shall be construed as a grant of a revocable privilege only to be held and enjoyed subject to all the conditions, restrictions and limitations contained in the New Mexico Small Loan Act of 1955 and lawful regulations promulgated by the director and not otherwise;

G. "licensee" means a person to whom one or more licenses have been issued pursuant to the New Mexico Small Loan Act of 1955 upon the person's written application electing to become a licensee and consenting to exercise the privilege of a licensee solely in conformity with the New Mexico Small Loan Act of 1955 and the lawful regulations promulgated by the director under that act and whose name appears on the face of the license;

H. "payday loan" means a loan in which the licensee accepts a personal check or debit authorization tendered by the consumer and agrees in writing to defer presentment of that check or use of the debit authorization until the consumer's next payday or another date agreed to by the licensee and the consumer and:

(1) includes any advance of money or arrangement or extension of credit whereby the licensee, for a fee, finance charge or other consideration:

(a) accepts a dated personal check or debit authorization from a consumer for the specific purpose of repaying a payday loan;

(b) agrees to hold a dated personal check or debit authorization from a consumer for a period of time prior to negotiating or depositing the personal check or debit authorization; or

(c) pays to the consumer, credits to the consumer's account or pays another person on behalf of the consumer the amount of an instrument actually paid or to be paid pursuant to the New Mexico Small Loan Act of 1955; but

(2) does not include:

(a) an overdraft product or service offered by a banking corporation, savings and loan association or credit union; and

(b) installment loans;

I. "payday loan product" means a payday loan or a payment plan pursuant to Section 58-15-35 NMSA 1978;

J. "person" includes an individual, copartner, association, trust, corporation and any other legal entity;

K. "renewed payday loan" means a loan in which a consumer pays in cash the administrative fee payable under a payday loan agreement and refinances all or part of the unpaid principal balance of an existing payday loan with a new payday loan from the same licensee. A "renewed payday loan" includes a transaction in which a consumer pays off all or part of an existing payday loan with the proceeds of a payday loan from the same licensee; and

L. "simple interest" means a method of calculating interest in which the amount of interest is calculated based on the annual interest rate disclosed in the loan agreement and is computed only on the outstanding principal balance of the loan."

## **Chapter 86 Section 3 Laws 2007**

Section 3. Section 58-15-3 NMSA 1978 (being Laws 1955, Chapter 128, Section 3, as amended) is amended to read:

### **"58-15-3. APPLICABILITY OF ACT--EXEMPTIONS--EVASIONS--PENALTY.--**

A. A person shall not engage in the business of lending in amounts of two thousand five hundred dollars (\$2,500) or less for a loan without first having obtained a license from the director. Nothing contained in this subsection shall restrict or prohibit a licensee under the New Mexico Small Loan Act of 1955 from making loans in any amount under the New Mexico Bank Installment Loan Act of 1959 in accordance with the provisions of Section 58-7-2 NMSA 1978.

B. Nothing in the New Mexico Small Loan Act of 1955 shall apply to a person making individual advances of two thousand five hundred dollars (\$2,500) or less under a written agreement providing for a total loan or line of credit in excess of two thousand five hundred dollars (\$2,500).

C. A banking corporation, savings and loan association or credit union operating under the laws of the United States or of a state shall be exempt from the licensing requirements of the New Mexico Small Loan Act of 1955, nor shall that act apply to business transacted by any person under the authority of and as permitted by any such law nor to any bona fide pawnbroking business transacted under a pawnbroker's license nor to bona fide commercial loans made to dealers upon personal property held for resale. Nothing contained in the New Mexico Small Loan Act of 1955 shall be construed as abridging the rights of any of those exempted from the operations of that act from contracting for or receiving interest or charges not in violation of an existing applicable statute of this state.

D. The provisions of Subsection A of this section apply to:

(1) a person who owns an interest, legal or equitable, in the business or profits of a licensee and whose name does not specifically appear on the face of the license, except a stockholder in a corporate licensee; and

(2) a person who seeks to evade its application by any device, subterfuge or pretense whatsoever, including but not thereby limiting the generality of the foregoing:

(a) the loan, forbearance, use or sale of credit (as guarantor, surety, endorser, comaker or otherwise), money, goods or things in action;

(b) the use of collateral or related sales or purchases of goods or services or agreements to sell or purchase, whether real or pretended;

(c) receiving or charging compensation for goods or services, whether or not sold, delivered or provided; and

(d) the real or pretended negotiation, arrangement or procurement of a loan through any use or activity of a third person, whether real or fictitious.

E. A person, copartnership, trust or a trustee or beneficiary thereof or an association or corporation or a member, officer, director, agent or employee thereof who violates or participates in the violation of a provision of Subsection A of this section is guilty of a petty misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Subsection B of Section 31-19-1 NMSA 1978. A contract or loan in the making or collection of which an act is done that violates Subsection A or D of this section is void and the lender has no right to collect, receive or retain any principal, interest or charges whatsoever."

## **Chapter 86 Section 4 Laws 2007**

Section 4. Section 58-15-5 NMSA 1978 (being Laws 1978, Chapter 6, Section 1, as amended) is amended to read:

"58-15-5. LICENSES -- INVESTIGATION OF APPLICATION -- ISSUANCE -- DENIAL -- ISSUANCE OF RENEWAL LICENSE--DENIAL OF RENEWAL LICENSE -- FITNESS AND CHARACTER OF APPLICANT -- LICENSE FEES -- LICENSEE BOUND BY ACT.--

A. Upon the filing of an application, whether it is an original or a renewal, the director shall investigate the facts concerning the application and the requirements provided in this section.

B. An applicant for license, upon written notice to do so by the director, shall, within twenty days after service of the notice, furnish in writing, under oath, to the director all additional information required by the director that may be relevant or, in the opinion of the director, helpful in conducting the investigation.

C. Failure to comply with the director's requirement for supplemental information or the willful furnishing of false information is sufficient grounds for denial of license.

D. False or misleading information willfully and intentionally furnished to the director prior to the issuance of any license is grounds for suspension or revocation of any license in accordance with the procedures for suspension or revocation of license in the New Mexico Small Loan Act of 1955.

E. The director shall grant or deny each application for an original license within sixty days from the filing of the application with the required information and fees, unless the period is extended by written agreement between the applicant and the director.

F. In the event the director finds that:

(1) the financial responsibility, character and general fitness of the applicant for an original license and of the individual members and beneficiaries thereof, if the applicant is a copartnership, association or trust, and of the officers and directors thereof, if the applicant is a corporation, are such as to command the confidence of the public and to warrant belief that the business will be operated lawfully, honestly, fairly and efficiently within the declared purposes and spirit of the New Mexico Small Loan Act of 1955;

(2) allowing the applicant to engage in business will promote the convenience and advantage of the community in which the business of the applicant is to be conducted; and

(3) the applicant has available for operation of the business at the specified location cash or its equivalent, convertible securities or receivables of thirty thousand dollars (\$30,000) or any combination thereof;

the director shall enter an order granting the application, file the director's findings and, upon payment of the license fee of five hundred dollars (\$500), issue and deliver a license to the applicant.

G. If the director does not make the findings enumerated in Subsection F of this section, the director shall enter an order denying the application, notify the applicant of the denial and retain the application fee. Within thirty days after the entry of such an order, the director shall prepare written findings and shall deliver a copy to the applicant.

H. A written application for license renewal shall be filed on or before March 31 of each year, and thereupon the director shall investigate the facts and review the files of examinations of the applicant made by the director's office and of complaints filed by borrowers, if any. The director shall deliver a renewal license to the applicant if the director finds that:

(1) no valid complaints of violations or abuses of the New Mexico Small Loan Act of 1955 or of the regulations of the director promulgated under that act have been filed by borrowers;

(2) examinations of the affairs of the applicant indicate that the business has been conducted and operated lawfully and efficiently within the declared purposes and spirit of the New Mexico Small Loan Act of 1955; and

(3) the financial responsibility, experience and general fitness and character of the applicant remain such as to command the confidence of the public and to warrant the belief that the business will continue to be operated lawfully and efficiently within the purposes and spirit of the New Mexico Small Loan Act of 1955.

I. If the director does not make the findings enumerated in Subsection H of this section, the director may grant a temporary extension of the license not exceeding sixty days pending a hearing; shall enter an order fixing a date for hearing upon the application; shall notify the licensee thereof, specifying the particular complaints, violations or abuses or other reasons for the director's contemplated refusal to renew the license; and shall afford to the applicant an opportunity to be heard. At the hearing, the director shall produce evidence to establish the truth of the charges of violation or other grounds specified in the notice, and the applicant shall be accorded the right to produce evidence or other matters of defense. If after the hearing the director finds that the complaints of violations or other grounds specified in the notice are not well-founded, the director shall issue the renewal license. If the director finds that the complaints of violations or other grounds are well-founded, the director shall enter an order denying the renewal application and notify the applicant of the denial, returning the renewal license fee tendered with the application. Within thirty days after the entry of such an order, the director shall prepare written findings and shall deliver a copy of the findings to the applicant. The order shall be subject to review as provided in Section 58-15-25 NMSA 1978. The court in its discretion and upon proper showing may order a temporary extension of the license pending disposition of the review proceedings.

J. In connection with the determination of fitness and character of an applicant pursuant to the provisions of this section, the fact that the applicant or licensee is a member of or interested financially in, connected or affiliated with, controls or is controlled by or owns or is owned by other corporations, partnerships, trusts, associations or other legal entities engaged in the lending of money whose policies and practices as to rates of interest, charges and fees and general dealing with borrowers are questionable or would constitute violation of the general usury statutes of this state or of the declared purposes and spirit of the New Mexico Small Loan Act of 1955 shall be given such consideration and weight as the director determines.

K. At the time of issuance of original license and each annual renewal thereof, the licensee for each licensed office shall pay to the director as a license fee for the period covered by the license the sum of five hundred dollars (\$500) as a minimum, plus an additional seventy-five cents (\$.75) for each one thousand dollars (\$1,000) or fraction thereof of loans outstanding as of December 31 next preceding, as shown on the applicant's annual report. In the event that the application for annual renewal of the license is delinquent, the licensee shall also pay a delinquency fee of ten dollars (\$10.00) per day for each day the licensee is delinquent in filing the application for renewal.

L. A licensee by accepting a license that is issued or renewed or by continuing to operate a licensed office under the New Mexico Small Loan Act of 1955 shall by such

action be deemed to have consented to be bound by the lawful provisions of that act and all lawful requirements, regulations and orders of the director promulgated or issued pursuant to any authorization granted in that act."

## **Chapter 86 Section 5 Laws 2007**

Section 5. Section 58-15-9 NMSA 1978 (being Laws 1955, Chapter 128, Section 9, as amended) is amended to read:

"58-15-9. EXAMINATION OF LICENSEE'S BOOKS AND RECORDS--  
WITNESSES.--

A. At least once each year, the director or the director's authorized representative shall make an examination of the place of business of each licensee and the loans, transactions, books, papers and records of the licensee insofar as they pertain to the business licensed under the New Mexico Small Loan Act of 1955 as the director may deem necessary. The licensee shall pay to the director for such annual examination a fee of two hundred dollars (\$200).

B. Within a reasonable time after the completion of an examination of a licensed office, the director shall mail to the licensee a copy of the report of the examination, together with any comments, exceptions, objections or criticisms of the director concerning the conduct of the licensee and the operation of the licensed office.

C. For the purpose of discovering violations of the New Mexico Small Loan Act of 1955 or of securing information lawfully required under that act, the director or the director's authorized representative may at any time investigate the business and examine the books, accounts, papers and records used therein, including income tax returns or other reports filed in the office of the director of the revenue processing division of the taxation and revenue department of:

(1) any licensee;

(2) any other person engaged in the business described in Subsection A of Section 58-15-3 NMSA 1978 or participating in such business as principal, agent, broker or otherwise; and

(3) any person whom the director has reasonable cause to believe is violating any provision of the New Mexico Small Loan Act of 1955, whether the person claims to be within the authority or beyond the scope of that act.

D. For the purposes of this section, a person who advertises, solicits or makes any representation as being willing to make loan transactions in any amount, except persons, financial institutions or lending agencies operating under charters or licenses issued by a state or federal agency or under any special statute, shall be subject to investigation under the New Mexico Small Loan Act of 1955 and shall be presumed to

be engaged in the business described in Subsection A of Section 58-15-3 NMSA 1978 as to any loans of two thousand five hundred dollars (\$2,500) or less.

E. To facilitate the examinations and investigations by the director and fully disclose the operations and methods of operation of each licensed office, the licensee shall, in each licensed office, keep on file as part of the records of the office all office manuals, communications or directives containing statements of loan policy to office managers and employees. If the licensee is an individual, corporation, trust or association, the licensee shall keep in at least one office for information of the director a record of the several individuals, firms, beneficiaries of any trust and corporations deriving or receiving any part of the benefits, net income or profits from the operation of the licensee within New Mexico.

F. For the purposes of this section, the director or the director's authorized representative shall have and be given free access to the offices and places of business, files, safes and vaults of all licensees and shall have authority to require the attendance of any person and to examine the person under oath relative to such loans or business or to the subject matter of any examination, investigation or hearing as provided in the New Mexico Small Loan Act of 1955. Notices to appear before the director for examination under oath may be served by registered mail. If the party notified to appear is the licensee, any person named on the face of the license being investigated or any agent, employee or manager participating in the licensee's business and the party fails to appear for examination or refuses to answer questions submitted, the director may, forthwith and without further notice to the licensee, suspend the license involved pending compliance with the notice. Upon failure of any other person to appear or to answer questions, the director may apply to and invoke the aid of any district court of New Mexico in compelling the attendance and testimony of any such person and the production of books, records, written instruments and documents relating to the business of the licensee. The district court whose aid is so invoked by the director may, in case of contumacy or refusal to obey any order of the district court issued to compel the attendance of the person or the production of books, records, written instruments and documents, punish the person as for contempt of court.

G. The director shall prescribe rules of procedure for all hearings, examinations or investigations provided for in the New Mexico Small Loan Act of 1955. The director is not bound by the usual common law or statutory rules of evidence or by any technical or formal rules of procedure or pleading and specification of charges other than as specifically provided in the New Mexico Small Loan Act of 1955 but may conduct hearings, examinations and investigations in the manner best calculated to ascertain the substantial rights of the parties interested.

H. The director has the power to administer oaths, certify official acts and records of the director's office, issue subpoenas for witnesses in the name of and under the seal of the director's office and compel the production of papers, books, accounts and documents. The director shall issue subpoenas at the instance of any party to a hearing

before the division upon payment of a fee of two dollars fifty cents (\$2.50) for each subpoena so issued.

I. Depositions may be taken with or without a commission, and written interrogatories may be submitted in the same manner and on the same grounds provided by law for the taking of depositions or submission of written interrogatories in civil actions pending in the district courts of this state.

J. Each witness who appears before the director by the director's order shall receive the fees and mileage provided for witnesses in civil actions in the district court. Fees and mileage shall be paid by the state, but no witness subpoenaed at the instance of parties other than the director is entitled to compensation from the state for attendance or mileage unless the director certifies that the witness' testimony is material.

K. Whenever the director has reasonable cause to believe that a person is violating a provision of the New Mexico Small Loan Act of 1955, the director may, in addition to all actions provided for in that act and without prejudice thereto, enter an order requiring the person to desist or to refrain from the violation. An action may be brought on the relation of the attorney general and the director to enjoin the person from engaging in or continuing the violation or from doing any act in furtherance of the violation. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper. In addition to all other means provided by law for the enforcement of a temporary restraining order, temporary injunction or final injunction, the court in which such action is brought shall have power and jurisdiction to impound and to appoint a receiver for the property and business of the defendants, including books, papers, documents and records pertaining thereto or so much thereof as the court may deem reasonably necessary to prevent further violations of the New Mexico Small Loan Act of 1955 through or by means of the use of the property and business. The receiver, when appointed and qualified, shall have powers and duties as to custody, collection, administration, winding up and liquidation of the property and business as are from time to time conferred upon the receiver by the court."

## **Chapter 86 Section 6 Laws 2007**

Section 6. Section 58-15-10 NMSA 1978 (being Laws 1955, Chapter 128, Section 10, as amended) is amended to read:

"58-15-10. BOOKS AND RECORDS--ANNUAL REPORTS--ADDITIONAL INFORMATION.--

A. Each licensee shall keep and use in the business such books, accounts and records in accordance with sound accounting practices that will enable the director to determine whether the licensee is complying with the provisions of the New Mexico Small Loan Act of 1955 and with the orders and regulations lawfully made by the

director pursuant to the provisions of that act. Each licensee shall preserve the books, accounts and records for at least two years after making the final entry on a loan recorded therein.

B. Each licensee shall, annually on or before March 31, file a report with the director giving such relevant information as the director may reasonably require concerning the business and operations during the preceding calendar year for each licensed place of business conducted by the licensee within the state pursuant to the provisions of the New Mexico Small Loan Act of 1955. The report shall be made under oath and shall be in the form prescribed by the director. A summary of the reports shall be included in the published annual report of the director.

C. At the time of filing each annual report, at the time of the annual examination or at any other time when a license is in effect, the director may, upon written notice, require a licensee to furnish within twenty days in writing, and under oath if so specified by any written notice issued and served by the director upon the licensee, additional information as to ownership of any office; operation of any office; books, records, files and papers; and affiliation or relationship with any other person, firm, trust, association or corporation as, in the opinion of the director, may be helpful in the discharge of the director's official duties.

D. False or misleading information willfully furnished to the director by a licensee in an annual report or pursuant to a notice or requirement of the director is sufficient grounds for suspension and revocation of license in accordance with the procedures for suspension or revocation of license set forth in the New Mexico Small Loan Act of 1955."

## **Chapter 86 Section 7 Laws 2007**

Section 7. Section 58-15-11 NMSA 1978 (being Laws 1955, Chapter 128, Section 11, as amended) is amended to read:

"58-15-11. REGULATIONS AND ORDERS--CERTIFIED COPIES.--

A. The director has authority to make reasonable regulations and orders for the administration and enforcement of the New Mexico Small Loan Act of 1955 and is expressly authorized to make regulations and orders governing the conduct of all licensees' operations, including the method and manner of selling, handling and writing, in connection with any loan, any form of insurance by the licensee or any agent or employee in the office of the licensee or of any other firm, person or corporation associated or affiliated with the licensee or operating in the same building in which the business of the licensee is conducted. Every regulation shall be promulgated by an order, and any ruling, demand, requirement or similar administrative act may be promulgated by an order. Every order shall be in writing, referenced to the section under which it is issued, shall state its effective date and the date of its promulgation and shall be entered in an indexed permanent book that shall be a public record. A copy of every

order promulgating a regulation and of every other order containing a requirement of general application shall be mailed to each licensee at least fifteen days before the effective date of the order.

B. The director is expressly authorized to make regulations and orders, in accordance with the provisions of Subsection A of this section, governing the conduct of licensees in making loans to consumers. Such regulations may address, consistent with the provisions of Sections 58-15-32 through 58-15-38 NMSA 1978, all aspects of loans to consumers and shall specifically address:

(1) the cost of loans, including fees and interest rates;

(2) the terms of loans, including amount, length, renewals, rescission, payments and security;

(3) required disclosures to consumers;

(4) methods of collection on loans in default; and

(5) methods of verifying consumer eligibility for loans and licensee compliance with the New Mexico Small Loan Act of 1955 and regulations promulgated pursuant to that act.

C. On application of any person and payment of the cost thereof, the director shall furnish, under the director's seal and signed by the director or the director's deputy, a certified copy of any license, regulation or order. In any court or proceeding, the copy shall be prima facie evidence of the fact of the issuance of a license, regulation or order."

## **Chapter 86 Section 8 Laws 2007**

Section 8. Section 58-15-12 NMSA 1978 (being Laws 1955, Chapter 128, Section 12, as amended) is amended to read:

"58-15-12. ADVERTISING.--A licensee or other person subject to the New Mexico Small Loan Act of 1955 shall not advertise, display, distribute or broadcast or cause or permit to be advertised, displayed, distributed or broadcast in any manner whatsoever a false, misleading or deceptive statement or representation with regard to the charges, terms or conditions for loans in the amount or of the value of two thousand five hundred dollars (\$2,500) or less. The director may require that charges or rates of charge, if stated by a licensee, be stated fully and clearly in such manner as the director deems necessary to prevent misunderstanding by prospective borrowers. The director may permit or require licensees to refer in their advertising to the fact that their business is under state supervision, subject to conditions imposed by the director to prevent erroneous impressions as to the scope or degree of protection provided by the New Mexico Small Loan Act of 1955."

## **Chapter 86 Section 9 Laws 2007**

Section 9. Section 58-15-14.1 NMSA 1978 (being Laws 1983, Chapter 95, Section 2) is amended to read:

"58-15-14.1. CHARGES--METHOD OF COMPUTATION.--The simple interest method shall be used for loans made under the New Mexico Small Loan Act of 1955. Interest charges shall not be paid, deducted or received in advance. Interest charges shall not be compounded. However, if part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan, then the principal amount payable under the loan contract may include any unpaid charges that have accrued within sixty days on the prior loan. Such charges shall be computed on the basis of the number of days actually elapsed."

## **Chapter 86 Section 10 Laws 2007**

Section 10. Section 58-15-17 NMSA 1978 (being Laws 1955, Chapter 128, Section 15, as amended) is amended to read:

"58-15-17. REQUIREMENTS FOR MAKING AND PAYING OF LOANS--INCOMPLETE INSTRUMENTS--LIMITATIONS ON CHARGES AFTER JUDGMENT AND INTEREST.--

A. Every licensee shall:

(1) at the time a loan is made within the provisions of the New Mexico Small Loan Act of 1955, deliver to the borrower or, if there are two or more borrowers on the same obligation, to one of them, a statement in English or Spanish as requested by the borrower, on which shall be printed a copy of Section 58-15-14.1 NMSA 1978 and that discloses in clear and distinct terms:

- (a) the amount of the loan;
- (b) the date the loan was made;
- (c) a schedule or a description of the payments;
- (d) the type of the security, if any, for the loan;
- (e) the name and address of the licensed office;
- (f) the name of the person primarily obligated for the loan;
- (g) the amount of principal;

(h) the agreed rate of charge stated on a percent per year basis and the amount in dollars and cents;

(i) all other disclosures required pursuant to state and federal law;  
and

(j) other items allowable pursuant to that act, so stated as to clearly show the allocation of each item included;

(2) for each payment made on account of any such loan, give to the person making it a plain and complete receipt specifying the date and amount of the payment, the amount applied to interest and principal and the balance unpaid. When payment is made in any other manner than by the borrower in person, by an agent of the borrower or by check or money order, the licensee shall mail the receipt to the borrower's last known address or hold the receipt for delivery upon request of the borrower. A copy of all receipts shall be kept on file in the office of the licensee as a part of the licensee's records; and

(3) upon payment of the loan in full, mark plainly every note and promise to pay signed by any obligor with the word "paid" or "canceled" and promptly file or record a release of any mortgage if the mortgage has been recorded, restore any pledge and cancel and return any note and any assignment given to the licensee. A licensee may mark and return a copy of the note, promise to pay or any assignment if the copy accurately reproduces the complete original.

B. A licensee shall not take a note or promise to pay that does not disclose the amount of the loan, a schedule of payments, or a description thereof, and the agreed charge or rate of charge or any instrument in which blanks are left to be filled in after execution.

C. If judgment is obtained against a party on a loan made pursuant to the provisions of the New Mexico Small Loan Act of 1955, neither the judgment nor the loan shall carry, from the date of the judgment, charges against a party to the loan other than costs, attorney fees and post-judgment interest as provided by law.

D. Any loan made under the provisions of the New Mexico Small Loan Act of 1955 that is filed and approved as a claim in any bankruptcy proceeding shall, from a date ninety days subsequent to the date of adjudication, bear interest at the rate of ten percent a year only. This limitation shall not apply when the bankrupt is not discharged in bankruptcy or to any obligation not dischargeable under the provisions of the Bankruptcy Act presently in force or as hereafter amended.

E. No loan made under the provisions of the New Mexico Small Loan Act of 1955 shall bear interest after ninety days from the date of the death of the borrower in excess of a rate of ten percent a year on the unpaid principal balance of the loan.

F. No loan made under the provisions of the New Mexico Small Loan Act of 1955 shall bear interest after twelve months from the date of maturity of the loan in excess of ten percent a year upon the unpaid principal balance of the loan."

## **Chapter 86 Section 11 Laws 2007**

Section 11. Section 58-15-20 NMSA 1978 (being Laws 1955, Chapter 128, Section 18) is amended to read:

"58-15-20. FEES AND COSTS.--

A. Notwithstanding any provision of the New Mexico Small Loan Act of 1955, lawful fees, if any, actually and necessarily paid out by the licensee to a public officer for the filing, recording or releasing in a public office of an instrument securing the loan may be charged to the borrower.

B. Notwithstanding any provision in a note or other loan contract taken or received pursuant to the provisions of the New Mexico Small Loan Act of 1955, attorney fees shall not be charged or collected except when the note or other contract has been submitted in good faith to an attorney for collection and after diligent and good faith effort to collect on the part of the licensee has failed.

C. Notary fees incident to the taking of a lien to secure a small loan or releasing such a lien shall not be charged or collected by a licensee, an officer, agent or employee of a licensee or anyone within an office, room or place of business in which a small loan office is conducted.

D. Delinquency fees shall not exceed five cents (\$.05) for each one dollar (\$1.00) of each installment more than ten days in arrears; provided that the total of delinquency charges on any such installment shall not exceed ten dollars (\$10.00) and that only one delinquency charge shall be made on any one installment regardless of the period during which the installment remains unpaid."

## **Chapter 86 Section 12 Laws 2007**

Section 12. Section 58-15-23 NMSA 1978 (being Laws 1955, Chapter 128, Section 21) is amended to read:

"58-15-23. VIOLATION OF GENERAL USURY LAWS.--The violation by a licensee or by an officer, manager, director, trustee, executive or employee directly engaged in operating a small loan office under the provisions of the New Mexico Small Loan Act of 1955 of any usury statute of this state within an office, room or place of business in which the making of loans as a licensee is solicited or engaged or in association or conjunction therewith is grounds for suspension and revocation of license in accordance with the applicable procedures set forth in that act."

## **Chapter 86 Section 13 Laws 2007**

Section 13. Section 58-15-30 NMSA 1978 (being Laws 1955, Chapter 128, Section 28) is amended to read:

"58-15-30. PENALTIES--GENERAL.--Any person, copartnership, trust, association or corporation and the several members, beneficiaries, officers, directors, agents and employees thereof who violate or participate in the violation of any provision of the New Mexico Small Loan Act of 1955 are guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five hundred dollars (\$500) or more than one thousand dollars (\$1,000) or by imprisonment of not more than six months or both in the discretion of the court."

## **Chapter 86 Section 14 Laws 2007**

Section 14. A new section of the New Mexico Small Loan Act of 1955, Section 58-15-32 NMSA 1978, is enacted to read:

"58-15-32. REQUIREMENTS FOR PAYDAY LOANS.--

A. No licensee shall make a payday loan to a consumer if the total principal amount of the loan and fees, when combined with the principal amount and fees of all of the consumer's other outstanding payday loan products, exceeds twenty-five percent of the consumer's gross monthly income.

B. Without affecting the rights of a consumer to prepay a payday loan product at any time without additional cost or penalty:

(1) no payday loan shall have a stated maturity greater than thirty-five days;

(2) no payday loan shall have a stated minimum term less than fourteen days unless agreed to in writing by the consumer; and

(3) there shall be a scheduled pay date for the consumer within the term of the payday loan.

C. A payday loan agreement shall include a provision granting the consumer the right to rescind the transaction by returning in cash, or through certified funds, one hundred percent of the amount advanced by a licensee for a payday loan no later than 5:00 p.m. on the first day of business conducted by the licensee following the execution of the payday loan agreement. If a consumer exercises the right of rescission pursuant to this subsection, no fee for the rescinded transaction shall be charged to the consumer and the licensee shall not charge or impose on the consumer a fee for exercising the right of rescission pursuant to this subsection. If this subsection is applicable, any fee collected by a licensee shall be returned in full to the consumer.

D. A consumer shall be permitted to make payments in any amount on a payday loan product at any time before maturity without additional fees. A payment received by a licensee shall first be applied to administrative fees owed with any remaining amount to be applied to principal.

E. After each payment is made, in full or in part, on a payday loan product, the licensee shall give to the person making the payment a signed, dated receipt showing the amount paid; the amount credited toward administrative fees and principal; and the balance due on the loan.

F. A check written by a consumer for a payday loan product shall be payable to the order of the licensee.

G. Prior to the consummation of a payday loan, the licensee shall provide the consumer, or each consumer if there is more than one, with copies of the payday loan product agreement in English, Spanish or other language as determined by the director. Consumers shall have the option to decide which language version of the agreement they wish to receive.

H. Licensees making payday loans shall provide the consumer with an information brochure in English, Spanish or other language as determined by the director. Consumers shall have the option to decide which language version of the brochure they wish to receive.

I. The disclosure of the credit terms of a payday loan product shall be according to and governed by the requirements of 12 CFR 226, known as "Regulation Z". The definitions and requirements of that regulation and commentary shall apply to payday loan products as if those provisions are fully set out in this section.

J. A licensee shall collect on payday loan products in default in a professional, fair and lawful manner. A licensee that complies with the requirements and prohibitions set forth in 15 U.S.C. 1692c-1692f of the federal Fair Debt Collection Practices Act shall be deemed to have operated in a professional, fair and lawful manner."

## **Chapter 86 Section 15 Laws 2007**

Section 15. A new section of the New Mexico Small Loan Act of 1955, Section 58-15-33 NMSA 1978, is enacted to read:

"58-15-33. PAYDAY LOAN PRODUCTS--PERMITTED CHARGES.--The following provisions apply only to payday loan products:

A. a licensee shall not charge or receive from a consumer, directly or indirectly, fees or charges except as provided in this section;

B. upon the execution of a new payday loan, the licensee may impose an administrative fee of not more than fifteen dollars fifty cents (\$15.50) per one hundred dollars (\$100) of principal, which fee is fully earned and nonrefundable at the time a payday loan agreement is executed and payable in full at the end of the term of the payday loan or upon prepayment of the payday loan unless a payday loan is rescinded pursuant to Subsection C of Section 58-15-32 NMSA 1978;

C. upon the execution of a new payday loan agreement, the licensee may impose an additional administrative fee of not more than fifty cents (\$.50) per executed new payday loan agreement as necessary to cover the cost to the licensee of verification pursuant to Section 58-15-37 NMSA 1978, which fee is fully earned and nonrefundable at the time a payday loan agreement is executed and payable in full at the end of the term of the payday loan or upon prepayment of the payday loan unless a payday loan is rescinded pursuant to Subsection C of Section 58-15-32 NMSA 1978;

D. a licensee shall not charge a consumer interest on the outstanding principal owed on a payday loan product; and

E. if there are insufficient funds to pay a check or other type of debit on the date of presentment by the licensee, a licensee may charge a consumer a fee not to exceed fifteen dollars (\$15.00). Only one fee may be collected by a licensee on a check or debit authorization. A check or debit authorization request shall not be presented to a financial institution by a licensee for payment more than one time unless the consumer agrees in writing, after a check or other type of debit has been dishonored, to one additional presentment or deposit."

## **Chapter 86 Section 16 Laws 2007**

Section 16. A new section of the New Mexico Small Loan Act of 1955, Section 58-15-34 NMSA 1978, is enacted to read:

"58-15-34. PAYDAY LOAN PRODUCTS--PROHIBITED ACTS.--A licensee shall not:

A. enter into an agreement for a renewed payday loan or otherwise refinance or extend the term of a payday loan;

B. enter into an agreement for a payday loan with a consumer who is participating in a payment plan pursuant to Section 58-15-35 NMSA 1978;

C. threaten or intimidate a consumer or threaten to use or request the use of criminal process in this or another state to collect on a payday loan product;

D. use a device or agreement that would have the effect of charging or collecting more fees, charges or interest than that allowed by law by entering into a different type of transaction with the consumer that has that effect;

E. require a consumer to enter into a new payday loan to pay an existing payday loan in whole or in part when the existing loan is eligible for a payment plan pursuant to Section 58-15-35 NMSA 1978;

F. charge a fee to cash a check representing the proceeds of a payday loan product;

G. charge a late fee or delinquency charge if a consumer fails to repay a payday loan product on time;

H. assign or attempt to assign a consumer's personal check to a third party unless for collection purposes;

I. use or attempt to use the check written by the consumer for a payday loan product as collateral for purposes other than repaying that payday loan product;

J. require a consumer to provide multiple checks or multiple debt authorizations;

K. accept collateral for a payday loan product other than the consumer's check or debit authorization or require a consumer to provide a guaranty from another person for a payday loan product;

L. include any of the following provisions in a payday loan product agreement:

(1) a hold harmless clause;

(2) a confession of judgment clause or power of attorney;

(3) an assignment of or order for payment of wages or other compensation for services;

(4) a waiver of claims for punitive damages;

(5) a provision in which the consumer agrees not to assert a claim or defense arising out of the contract;

(6) a waiver of a provision of the New Mexico Small Loan Act of 1955;

(7) a waiver of the right to enter into a payment plan pursuant to Section 58-15-35 NMSA 1978; or

(8) a waiver of any rights secured by New Mexico law;

M. make a payday loan product contingent on the purchase of insurance or other goods or services;

N. take a check, instrument or form in which blanks are left to be filled in after execution of the check, instrument or form;

O. offer, arrange, act as an agent for or assist a third party in any way in the making of a payday loan product unless the third party complies with all applicable federal and state laws and regulations;

P. knowingly enter into a payday loan product with a consumer who lacks the capacity to consent; or

Q. use an agency agreement or partnership agreement as a scheme or contrivance to circumvent the application of the provisions of the New Mexico Small Loan Act of 1955 to a consumer's payday loan product. For the purposes of this subsection:

(1) "agency agreement" means any agreement between in-state entities and a banking corporation, savings and loan association or credit union operating under the laws of the United States or of any state whereby the in-state agent holds a predominant economic interest in the revenues generated by a payday loan made to New Mexico residents; and

(2) "partnership agreement" means any agreement between in-state entities and a banking corporation, savings and loan association or credit union operating under the laws of the United States or of any state whereby the in-state partner holds a predominant economic interest in the revenues generated by a payday loan made to New Mexico residents."

## **Chapter 86 Section 17 Laws 2007**

Section 17. A new section of the New Mexico Small Loan Act of 1955, Section 58-15-35 NMSA 1978, is enacted to read:

"58-15-35. PAYDAY LOANS--PAYMENT PLANS.--

A. At the time a consumer enters into a payday loan agreement, the licensee shall offer the consumer the opportunity to enter into an unsecured payment plan for any unpaid administrative fees and principal balance of the payday loan. The consumer may elect, and a licensee shall permit, entry into a payment plan for any unpaid administrative fees and principal balance of the payday loan.

B. No fees, charges or interest may be charged for a payment plan.

C. A payment plan shall provide for:

(1) a minimum of one hundred thirty days for the repayment of the unpaid principal balance of a payday loan; and

(2) relatively equal installment payments based upon the consumer's schedule of pay periods.

D. A payment plan entered into pursuant to the provisions of this section shall not be considered an installment loan.

E. A licensee that fails to offer a consumer the opportunity to enter into a payment plan for a payday loan pursuant to Subsection A of this section shall not commence a legal proceeding against a consumer to collect on that payday loan if it has not been fully repaid."

## **Chapter 86 Section 18 Laws 2007**

Section 18. A new section of the New Mexico Small Loan Act of 1955, Section 58-15-36 NMSA 1978, is enacted to read:

"58-15-36. PAYDAY LOANS--WAITING PERIOD.-- A licensee shall not make a payday loan to a consumer who has entered into a payment plan pursuant to Section 58-15-35 NMSA 1978 until at least ten calendar days have passed since the consumer completed all payment obligations pursuant to all of the consumer's outstanding payday loan products, including that payment plan."

## **Chapter 86 Section 19 Laws 2007**

Section 19. A new section of the New Mexico Small Loan Act of 1955, Section 58-15-37 NMSA 1978, is enacted to read:

"58-15-37. PAYDAY LOANS--VERIFICATION.--

A. Before entering into a payday loan agreement with a consumer, a licensee shall use a commercially reasonable method of verification to verify that the proposed loan agreement is permissible under the provisions of the New Mexico Small Loan Act of 1955.

B. No later than November 1, 2007, the director shall certify that one or more consumer reporting service databases are commercially reasonable methods of verification. The list of consumer reporting services that the director has certified as providing commercially reasonable methods of verification shall be posted on the division's web site and shall be mailed to each licensee by first class mail at the address of record as shown on the division's licensing files.

C. Each licensee who provides payday loan products shall comply with Subsection A of this section no later than November 30, 2007.

D. A consumer seeking a payday loan may make a direct inquiry to the consumer reporting service to request a more detailed explanation of the basis for a consumer

reporting service's determination that the consumer is ineligible for a new payday loan, and the consumer reporting service shall provide a reasonable response to the consumer.

E. In certifying a commercially reasonable method of verification, the director shall ensure the certified database:

(1) provides real-time access through an internet connection or, if real-time access through an internet connection becomes unavailable due to technical problems incurred by the consumer reporting service, through alternative verification mechanisms, including verification by telephone;

(2) is accessible to the division and to licensees in real time in order to ensure compliance with the New Mexico Small Loan Act of 1955 regardless of where the consumer requests a payday loan in New Mexico and in order to provide any other information the director deems necessary;

(3) requires licensees to input whatever information is required by the New Mexico Small Loan Act of 1955;

(4) contains a real-time regulator interface that allows the division access to the consumer reporting service database for the required monitoring and reporting function, including the ability to determine consumer eligibility and to generate reports for licensee examinations, regulatory reporting and program monitoring;

(5) provides licensees with no more than a statement that a consumer is eligible or ineligible for a new payday loan and the reason for the determination;

(6) provides adequate safeguards to ensure that consumer information contained in the database is kept strictly confidential;

(7) provides sufficient information to enable a licensee to determine whether a proposed payday loan would meet the requirements for payday loans set forth in the New Mexico Small Loan Act of 1955;

(8) ensures that information submitted to the certified database is kept confidential and shall not be released or otherwise made available to the public;

(9) demonstrates a working system to the division prior to the certification of the database; and

(10) is generated by a registered consumer reporting service that is subject to the applicable rules and regulations applied by the federal trade commission under the Fair Credit Reporting Act.

F. A licensee shall update the certified database by inputting all information required under Paragraph (3) of Subsection E of this section at the time that:

- (1) a payday loan is made;
- (2) a consumer elects to enter into a payment plan;
- (3) a consumer's payday loan is paid in full; or
- (4) a licensee determines a payday loan is in default.

G. A licensee may rely on the information contained in the certified database as accurate and is not subject to any penalty or liability as a result of relying on inaccurate information contained in the database.

H. In determining whether a consumer reporting service should be certified as a commercially reasonable method of verification, the director shall consider whether such consumer reporting service is adequately capitalized, demonstrates the resources and the ability to perform the services required pursuant to this section and has appropriate surety to ensure performance of its obligations pursuant to this section and to reasonably protect claimants in the event that actions or inactions on the part of the consumer reporting service results in damages to licensees or consumers.

I. The provisions of Section 14-7-1 NMSA 1978 shall not apply to access by the division to information for purposes of compliance monitoring or preparation of reports contained in a certified database established pursuant to this section."

## **Chapter 86 Section 20 Laws 2007**

Section 20. A new section of the New Mexico Small Loan Act of 1955, Section 58-15-38 NMSA 1978, is enacted to read:

"58-15-38. REQUIRED DISCLOSURES WHEN MAKING PAYDAY LOANS--  
REQUIRED SIGNAGE.--

A. A licensee making payday loans shall provide a notice immediately above the consumer's signature on each payday loan agreement in at least twelve-point bold type using the following language:

- (1) A payday loan is not intended to meet long-term financial needs.
- (2) You should use a payday loan only to meet short-term cash needs.
- (3) A payday loan is a high-cost loan. You should consider what other lower-cost loans are available to you.

(4) If you cannot fully repay a payday loan when due, you have a right to enter into a payment plan requiring payment within a minimum of one hundred thirty days, in relatively equal installments, based upon your scheduled pay periods. If you enter into a payment plan, you will not have to pay an additional administrative fee or interest on the outstanding principal balance or any unpaid administrative fees.

(5) If you have had payment obligations under a payment plan pursuant to Section 58-15-35 NMSA 1978, you may not enter into a new payday loan until at least ten calendar days have passed since you have completed all payment obligations pursuant to all of your outstanding payday loan products, including that payment plan.

B. Each licensee shall display in each licensed place of business in a place where it will be readily legible by consumers, a sign containing the following notice in both English and Spanish: "If you cannot fully repay a payday loan when due, you have a right to enter into a payment plan requiring payment within a minimum of one hundred thirty days, in relatively equal installments, based upon your scheduled pay periods. If you enter into a payment plan, you will not have to pay an additional administrative fee or interest on the outstanding principal balance or any unpaid administrative fees."

## **Chapter 86 Section 21 Laws 2007**

Section 21. A new section of the New Mexico Small Loan Act of 1955, Section 58-15-39 NMSA 1978, is enacted to read:

"58-15-39. DUTIES OF DIVISION.--

A. The division shall:

(1) maintain a list of licensees, which list shall be available to interested persons and the public; and

(2) establish a complaint process whereby an aggrieved consumer or other person may file a complaint against a licensee.

B. The division shall annually provide a report to the legislature detailing statistics, including data adequate to obtain an accurate understanding of the practices, demographics and legal compliance of all licensees licensed in the state. The division shall compile an annual report by October 1 of each year containing, at a minimum, data regarding all payday loan products entered into in the preceding calendar year on an aggregate basis. Annual reports shall be made available to interested parties and the general public. Consistent with state law, the report shall include, at a minimum, nonidentifying consumer data from the preceding year, including:

(1) the total number and dollar amount of payday loan products entered into in the calendar year ending December 31 of the previous year;

(2) the total number and dollar amount of payday loan products outstanding as of December 31 of the previous year;

(3) the effective annualized percentage rate and the average number of days of a payday loan during the calendar year ending December 31 of the previous year;

(4) the number of payday loan products entered into in the amount of one hundred dollars (\$100) or less, the number of payday loan products entered into in the amount of one hundred one dollars (\$101) to five hundred dollars (\$500), the number of payday loan products entered into in the amount of five hundred one dollars (\$501) to one thousand dollars (\$1,000), the number of payday loan products entered into in the amount of one thousand one dollars (\$1,001) to one thousand five hundred dollars (\$1,500), the number of payday loan products in the amount of greater than one thousand five hundred dollars (\$1,500) and the percentage of total payday loan products entered into in each of those ranges;

(5) an estimate of the total dollar amount of fees collected for payday loan products;

(6) the total number of payday loan products entered into and the total dollar amount of the net charge-offs or write-offs and of the net recoveries of licensees;

(7) the minimum, maximum and average dollar amounts of payday loan products entered into in the calendar year ending December 31 of the previous year;

(8) the average payday loan product amount, average number of transactions and average aggregate payday loan product amount entered into per consumer each year;

(9) the average number of days a consumer is engaged in a payday loan product each year;

(10) an estimate of the average total fees paid by a payday loan product consumer;

(11) the number of consumers who are eligible for payment plans and the number of consumers who enter into payment plans pursuant to Section 58-15-35 NMSA 1978; and

(12) the number of consumers who are subject to the restrictions of the waiting period pursuant to Section 58-17-36 NMSA 1978."

## **Chapter 86 Section 22 Laws 2007**

Section 22. REPEAL.--Section 58-15-15 NMSA 1978 (being Laws 1959, Chapter 201, Section 1, as amended) is repealed.

### **Chapter 86 Section 23 Laws 2007**

Section 23. 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 86 Section 24 Laws 2007**

Section 24. APPLICABILITY.--The provisions of Sections 14 through 21 of this act shall not apply to payday loans entered into before November 1, 2007 or to loans other than payday loans.

### **Chapter 86 Section 25 Laws 2007**

Section 25. EFFECTIVE DATE.--The effective date of the provisions of this act is November 1, 2007.

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House Floor Substitute for House

Judiciary Committee Substitute for

House Bill 92, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 87**

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING FOR SPECIAL REGISTRATION PLATES FOR CHILD ADOPTION AWARENESS.

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

### **Chapter 87 Section 1 Laws 2007**

Section 1. A new section of Chapter 66, Article 3 NMSA 1978 is enacted to read:

"SPECIAL REGISTRATION PLATES FOR ADOPTION AWARENESS.--

A. The department shall establish and issue a special registration plate pursuant to Section 66-3-424 NMSA 1978 with a logo promoting awareness of the need for adoption of children in New Mexico.

B. The department shall determine the design of the logo for the child adoption awareness special registration plate in consultation with the children, youth and families department and child adoption interest groups with the purpose of promoting child adoption.

C. A person may apply for the original issuance of a child adoption awareness special registration plate for a motor vehicle the person owns for a fee of ten dollars (\$10.00) in addition to the regular motor vehicle registration fee. A person may renew a child adoption awareness special registration plate by paying only the regular motor vehicle annual registration fee.

D. The ten-dollar (\$10.00) original issuance fee for a child adoption awareness special registration plate shall be retained by the department and is appropriated to the department to defray the costs of making and issuing the child adoption awareness special registration plate."

## **Chapter 87 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2008.

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House Bill 160, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 88**

AN ACT

RELATING TO PUBLIC ASSISTANCE; REQUIRING A RESPONSE FROM THE HUMAN SERVICES DEPARTMENT TO A RECIPIENT'S REQUEST FOR INFORMATION ABOUT EXPIRATION OF PUBLIC BENEFITS.

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

## **Chapter 88 Section 1 Laws 2007**

Section 1. A new section of the Public Assistance Act is enacted to read:

"ELIGIBLE PERSON ENTITLED TO INFORMATION.--A recipient shall be provided with information about expiration of medicaid or general assistance benefits when the recipient or the recipient's guardian, custodian or other authorized representative files a request for such information with the human services department. The department shall respond to the request within five business days of receipt of the request made on a form the department shall devise and make available to a recipient. The response shall be by physical mail, electronic mail or facsimile or by access into a department-authorized web site."

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House Bill 234, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 89**

### **AN ACT**

RELATING TO LAW ENFORCEMENT; REQUIRING LAW ENFORCEMENT TO IDENTIFY MINOR OR DEPENDENT CHILDREN UPON AN ARREST; PROVIDING FOR GUIDELINES AND A TRAINING PROGRAM FOR ENSURING CHILD SAFETY UPON THE ARREST OF A PARENT OR GUARDIAN.

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

### **Chapter 89 Section 1 Laws 2007**

Section 1. A new section of the Law Enforcement Training Act is enacted to read:

"ENSURING CHILD SAFETY UPON ARREST--TRAINING.--Training for ensuring child safety upon the arrest of a parent or guardian shall be included in the curriculum of each basic law enforcement training class and as a component of in-service training each year for certified police officers."

### **Chapter 89 Section 2 Laws 2007**

Section 2. A new section of Chapter 31, Article 1 NMSA 1978 is enacted to read:

"IDENTIFICATION OF MINOR OR DEPENDENT CHILDREN UPON ARREST--REQUIRED INQUIRY--GUIDELINES.--

A. A state or local law enforcement officer who arrests a person shall, at the time of the arrest, inquire whether the person is a parent or guardian of minor or dependent children who may be at risk as a result of the arrest. The officer shall make reasonable

efforts to ensure the safety of minor or dependent children at risk as a result of an arrest in accordance with guidelines established by the department of public safety.

B. The department of public safety, in consultation with the children, youth and families department, shall establish guidelines and a training program for law enforcement officers for ensuring child safety upon the arrest of a parent or guardian. The guidelines and training program shall include:

(1) procedures to ensure that law enforcement officers inquire whether arrestees have minor or dependent children who may be present or at another location at the time of the arrest;

(2) procedures for the proper arrangement of temporary care for children to ensure their safety and well-being; and

(3) education on how the effects of witnessing a violent crime or other event causes emotional harm to children and how law enforcement can assist in mitigating the long-term effects of the trauma."

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House Bill 271, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 90**

AN ACT

RELATING TO PUBLIC UTILITIES; PROHIBITING THE DISCLOSURE OF CONSUMER INFORMATION.

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

### **Chapter 90 Section 1 Laws 2007**

Section 1. A new section of Chapter 62, Article 8 NMSA 1978 is enacted to read:

"CONSUMER INFORMATION--DISCLOSURE PROHIBITED.--

A. A public utility, as defined pursuant to Section 62-3-3 NMSA 1978, or its employees or agents shall not sell or disclose consumers' nonpublic personal information without the customer's permission or unless it is in accordance with standardized credit reporting practices, pursuant to the provisions of Chapter 56, Article 3 NMSA 1978 or the federal Fair Credit Reporting Act or other reporting requirements imposed on the public utility.

B. Exempted from the provisions of this section are:

(1) the public regulation commission pursuant to the Public Utility Act and the Public Regulation Commission Act and rules adopted pursuant to those acts; or

(2) an action by a government agency or an officer, employee or agent of an agency acting on behalf of the agency to obtain telephone records in connection with the performance of the official duties of the agency."

## **Chapter 90 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Consumer and Public Affairs

Committee Substitute for

House Bill 279, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 91**

AN ACT

RELATING TO ADULT PROTECTIVE SERVICES; INCREASING PENALTIES;  
EXPANDING SYSTEM SERVICES; CLARIFYING DEPARTMENT DUTIES.

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

## **Chapter 91 Section 1 Laws 2007**

Section 1. Section 27-7-15 NMSA 1978 (being Laws 1989, Chapter 389, Section 2, as amended) is amended to read:

"27-7-15. LEGISLATIVE FINDINGS--PURPOSE.--

A. The legislature recognizes that many adults in the state are unable to manage their own affairs or protect themselves from abuse, neglect or exploitation. The legislature further recognizes that the state should protect adults by providing for the detection, correction and elimination of abuse, neglect or exploitation through a program of short-term services for adults in need of protective services or protective placement.

B. It is the purpose of the Adult Protective Services Act to establish a system of protective services and protective placement and to ensure the availability of those services or placement to all adults in need of them. It is also the purpose of the Adult Protective Services Act to authorize only the least possible restriction on the exercise of personal and civil rights and religious beliefs consistent with the adult's need for protective services or protective placement and to require that due process be followed in imposing those restrictions.

C. Nothing in the Adult Protective Services Act shall be construed to mean an adult, including an incapacitated adult or a protected adult, is abused, neglected, or exploited if the adult relies upon or is being furnished with spiritual treatment through prayer alone in accordance with the express or implied intent of the adult; nor shall anything in that act be construed to authorize or require any medical care or treatment in contravention of the express or implied wish of that adult."

## **Chapter 91 Section 2 Laws 2007**

Section 2. Section 27-7-16 NMSA 1978 (being Laws 1989, Chapter 389, Section 3, as amended) is amended to read:

"27-7-16. DEFINITIONS.--As used in the Adult Protective Services Act:

A. "ability to consent" means an adult's ability to understand and appreciate the nature and consequences of proposed protective services or protective placement, including benefits, risks and alternatives to the proposed services or placement and to make or communicate an informed decision;

B. "abuse" means:

(1) knowingly, intentionally or negligently and without justifiable cause inflicting physical pain, injury or mental anguish;

(2) the intentional deprivation by a caretaker or other person of services necessary to maintain the mental and physical health of an adult; or

(3) sexual abuse, including criminal sexual contact, incest and criminal sexual penetration;

C. "adult" means a person eighteen years of age or older;

D. "caretaker" means a facility, provider or individual that has assumed the responsibility for the care of an adult;

E. "conservator" means a person who is appointed by a court to manage the property or financial affairs, or both, of an incapacitated adult;

F. "court" means the district court having jurisdiction;

G. "department" means the aging and long-term services department;

H. "emergency" means that an adult is living in conditions that present a substantial risk of death or immediate and serious physical harm to the adult or others;

I. "exploitation" means an unjust or improper use of an adult's money or property for another person's profit or advantage, pecuniary or otherwise;

J. "facility" means a hospital, nursing home, residential care facility, group home, foster care home, assisted living facility or other facility licensed by the state, but does not include a jail, prison or detention facility;

K. "guardian" means a person who has qualified to provide for the care, custody or control of an incapacitated adult pursuant to testamentary or court appointment, but excludes one who is a guardian ad litem;

L. "incapacitated adult" means any adult with a mental, physical or developmental condition that substantially impairs the adult's ability to provide adequately for the adult's own care or protection;

M. "multidisciplinary team" means a team composed of diverse professionals who meet periodically to consult on or enhance appropriate community responses to abuse, neglect or exploitation of adults;

N. "neglect" means the failure of the caretaker of an adult to provide for the basic needs of the adult, such as clothing, food, shelter, supervision and care for the physical and mental health of that adult; "neglect" includes self-neglect;

O. "protected adult" means an adult for whom a guardian or conservator has been appointed or other protective order has been made or an abused, neglected or exploited adult who has consented to protective services or protective placement;

P. "protective placement" means the placement of an adult with a provider or in a facility or the transfer of an adult from one provider or facility to another;

Q. "protective services" means the services furnished by the department or its delegate, as described in Section 27-7-21 NMSA 1978;

R. "provider" means a private-residence or health care worker or an unlicensed residential or nonresidential entity that provides personal, custodial or health care;

S. "self-neglect" means an act or omission by an incapacitated adult that results in the deprivation of essential services or supports necessary to maintain the incapacitated adult's minimal mental, emotional or physical health and safety;

T. "substantiated" means a determination, based on a preponderance of collected and assessed credible information, that abuse, neglect or exploitation of an incapacitated or protected adult has occurred; and

U. "surrogate" means a person legally authorized to act on an adult's behalf."

## **Chapter 91 Section 3 Laws 2007**

Section 3. Section 27-7-17 NMSA 1978 (being Laws 1989, Chapter 389, Section 4, as amended) is amended to read:

### **"27-7-17. ADULT PROTECTIVE SERVICES SYSTEM.--**

A. Subject to the availability of funds, the department shall develop a coordinated system of protective services or protective placement for incapacitated or protected adults who have been abused, neglected or exploited. In planning this system, the department shall obtain the advice of agencies, corporations, boards and associations involved in the provision of social, health, legal, nutritional and other services to adults, as well as of organizations of adults.

B. The department shall ensure that the adult protective services system for incapacitated or protected adults who have been abused, neglected or exploited includes:

(1) a process for the collection and analysis of data relating to adult protective services or protective placement and for the provision of an annual findings and recommendations report to the governor and the appropriate interim committee;

(2) the establishment and use of multidisciplinary teams to develop treatment strategies, ensure maximum coordination with existing community resources and provide comprehensive assessment and case consultation on difficult or complex cases, provided that the adults' privacy and confidentiality rights in such cases are protected;

(3) coordination among the various state or local agencies that serve incapacitated or protected adults; and

(4) an emphasis on the need for prevention of abuse, neglect or exploitation of adults.

C. Upon establishment of the adult protective services system, the department shall be responsible for continuing coordination and supervision of the system. In carrying out these duties, the department shall:

(1) adopt rules necessary to implement and operate the system;

(2) monitor and evaluate the effectiveness of the system; and

(3) use to the extent available grants from federal, state and other public and private sources to support the system.

D. The department shall administer a public information program regarding the problem of abuse, neglect and exploitation of adults; reporting and prevention of adult abuse, neglect or exploitation; and the availability of treatment and protective services or protective placement for those adults."

## **Chapter 91 Section 4 Laws 2007**

Section 4. Section 27-7-19 NMSA 1978 (being Laws 1989, Chapter 389, Section 6, as amended) is amended to read:

"27-7-19. DEPARTMENT--DUTIES--PENALTY.--

A. The department shall:

(1) develop, maintain and update as needed a process to receive a report or referral of suspected abuse, neglect or exploitation of an adult;

(2) assess an adult and the adult's situation to determine what immediate protective services or protective placement may be required;

(3) conduct an investigation to determine if the report or referral of abuse, neglect or exploitation is substantiated;

(4) document evidence, observations and other information obtained in the course of an investigation;

(5) develop a plan to provide an adult with or refer an adult for protective services, protective placement or other intervention services, unless the department determines that the adult is knowingly and voluntarily refusing services; and

(6) ensure that the protective services or protective placement provided by or through the department is short term and has a termination date; provided that appropriate arrangements have been made for follow-up care if needed, including any long-term services for which the adult may qualify.

B. Upon request, the department, in accordance with federal or state laws that protect an adult's right to privacy and confidentiality, shall have immediate access to and may reproduce any record, including medical, personal, psychological and financial records, of the adult that the department determines is necessary to pursue an investigation mandated by this section or by the Resident Abuse and Neglect Act if:

(1) the adult has the ability to consent and has given written consent;

(2) the adult is unable to consent in writing, and gives oral consent in the presence of a third party as a witness;

(3) the adult has a guardian, conservator or surrogate with the authority to approve review of the records and the department obtains the permission of the guardian, conservator or surrogate for review of the record;

(4) the adult is unable to give consent and:

(a) has no guardian, conservator or surrogate;

(b) the department is unaware of and has no reasonable grounds for believing that there is a guardian, conservator or surrogate; or

(c) the department is unable to contact the guardian, conservator or surrogate within three working days of the initiation of the investigation; or

(5) the department obtains from the district court an order granting access upon a showing that:

(a) consent is being withheld due to coercion, extortion or justifiable fear of future abuse, neglect, exploitation or abandonment of the adult; or

(b) there is reasonable cause to believe that the adult has been or is being abused, neglected or exploited and that after notice by the department of the alleged abuse, neglect or exploitation, the guardian, conservator or surrogate has refused to give consent.

C. Upon request by the department, the provider or a facility in which an adult is or has been residing shall provide to the department the name, address and telephone number of the guardian, conservator, surrogate, attorney-in-fact, legal representative or next of kin of the adult.

D. The department shall have immediate access to an adult, whether in a facility or provider setting, who is alleged to be abused, neglected or exploited to determine the accuracy of the report and the necessity of protective services or protective placement, to evaluate the adult's needs and develop a service plan to meet those needs and to provide for the services or placement by or through the department. If the department is denied access to the adult alleged to be abused, neglected or exploited, the department may gain access upon petition to the court for an order requiring appropriate access if the department can demonstrate that a facility, provider or individual has interfered with the department's attempts to access the adult under investigation.

E. Anyone willfully interfering with an investigation of adult abuse, neglect or exploitation, pursuant to this section, is guilty of a misdemeanor. Interference under this section shall not include efforts by a facility, provider or individual to establish whether there is reasonable cause to believe that there is adult abuse, neglect or exploitation, provided that the department is notified as soon as reasonable cause is established, whether or not the internal investigation has been concluded.

F. The department may assess a civil penalty not to exceed ten thousand dollars (\$10,000) per violation against a facility, provider or individual who violates the provisions of Subsection B, C or D of this section. The department may assess and collect the penalty, after notice and an opportunity for hearing before a hearing officer designated by the department to hear the matter, upon a determination that a facility, provider or individual willfully interfered with the department or discriminated, disciplined or retaliated against a person who communicated or disclosed information to the department in good faith pursuant to this section. The hearing officer has the power to administer oaths on request of any party and issue subpoenas and subpoenas duces tecum. Additionally, if the violation is against a person covered by the Personnel Act, the department shall refer the matter to the agency employing the person for disciplinary action. Any party may appeal a final decision by the department to the court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

## **Chapter 91 Section 5 Laws 2007**

Section 5. Section 27-7-21 NMSA 1978 (being Laws 1989, Chapter 389, Section 8, as amended) is amended to read:

### **"27-7-21. NATURE OF PROTECTIVE SERVICES--COSTS.--**

A. Protective services are short-term services furnished by the department or under arrangement through the department to an incapacitated or protected adult who has been abused, neglected or exploited and with the adult's consent or appropriate legal authority.

B. The protective services furnished in a protective services system may include social, psychiatric, health, legal and other services provided on a short-term basis that, if appropriate, transition to other ongoing or long-term services outside the protective services system and that detect, correct or eliminate abuse, neglect or exploitation consistent with the Adult Protective Services Act. The adult protective services system established by the department may include outreach, public information and education, prevention programs, referral for health or legal services and other activities consistent with the Adult Protective Services Act.

C. The costs of providing protective services shall be borne by the department or other appropriate agency, unless the adult agrees to pay for them or a court authorizes

the provider or the department or other agency to receive reasonable reimbursement from the adult's assets after a finding that the adult is financially able to make payment. As appropriate and as permitted by law, the department may bill the adult or a third party to receive reasonable reimbursement for protective services rendered."

## **Chapter 91 Section 6 Laws 2007**

Section 6. Section 27-7-23 NMSA 1978 (being Laws 1989, Chapter 389, Section 10, as amended) is amended to read:

"27-7-23. VOLUNTARY PROTECTIVE SERVICES--PROTECTIVE PLACEMENT--PENALTY.--

A. Any adult who has been abused, neglected or exploited and is in need of protective services or protective placement as determined by the department and who consents to those services or placement shall receive them. If the adult withdraws or refuses consent, voluntary protective services or protective placement shall not be provided. No legal rights are relinquished as a result of acceptance of voluntary protective services or protective placement.

B. A person who interferes with the provision of protective services or protective placement to an adult who consents to receive those services or placement is guilty of a misdemeanor. In the event that interference occurs, the department may petition the court to enjoin that interference, may impose a civil penalty or, at the department's discretion, may request criminal prosecution.

C. The department may assess a civil penalty not to exceed ten thousand dollars (\$10,000) per violation against a person that violates the provisions of Subsection B of this section. The department may assess and collect the penalty after notice and an opportunity for hearing, before a hearing officer designated by the department to hear the matter, upon a determination that a person willfully interfered with the department pursuant to this subsection. The hearing officer has the power to administer oaths on request of any party and issue subpoenas and subpoenas duces tecum. Additionally, if the violation is against a person covered by the Personnel Act, the department shall refer the matter to the agency employing the person for disciplinary action. Any party may appeal a final decision by the department to the court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

## **Chapter 91 Section 7 Laws 2007**

Section 7. Section 27-7-24 NMSA 1978 (being Laws 1989, Chapter 389, Section 11, as amended) is amended to read:

"27-7-24. INVOLUNTARY PROTECTIVE SERVICES AND PROTECTIVE PLACEMENT--PENALTY.--

A. If an adult lacks the ability to consent to receive protective services or protective placement, those services or placement may be ordered by a court on an involuntary basis through an emergency order pursuant to the Adult Protective Services Act or through appointment of a guardian or conservator.

B. In ordering involuntary protective services or protective placement, the court shall authorize only that intervention that it finds to be least restrictive of the adult's liberty and rights consistent with the adult's welfare and safety. The basis for such a finding shall be stated in the record by the court.

C. The incapacitated or protected adult shall not be required to pay for involuntary protective services or protective placement unless that payment is authorized by the court upon a showing that the adult is financially able to pay. In this event, the court shall provide for reimbursement of the reasonable costs of the services or placement.

D. A person who interferes with the provision of involuntary protective services or protective placement to an adult is guilty of a misdemeanor. In the event that interference occurs, the department may petition the court to enjoin interference, may impose a civil penalty or, at the department's discretion, may request criminal prosecution.

E. The Adult Protective Services Act does not affect other state statutes governing treatment of an adult admitted to a mental health care institution for mental illness or involuntary commitment of an adult to a mental health care institution for mental illness or any other involuntary mental health treatment.

F. The department may petition the court for the appointment of a guardian or conservator if the department determines that a no less restrictive course of care or treatment is available that is consistent with the incapacitated adult's welfare and safety.

G. The department and its employees are prohibited from:

(1) taking custody of an adult;

(2) acting as guardian, conservator or surrogate for any adult in need of protective services or protective placement, except that an employee may serve in that role when related by affinity or consanguinity to an adult;

(3) acting as treatment guardian under the Mental Health and Developmental Disabilities Code, except that an employee may serve in that role when related by affinity or consanguinity to an adult;

(4) acting as qualified health care professionals pursuant to the Uniform Probate Code; and

(5) acting as visitors under the Uniform Probate Code for any adult in need of protective services or protective placement.

H. The department may assess a civil penalty not to exceed ten thousand dollars (\$10,000) per violation against a person that violates the provisions of Subsection D of this section. The department may assess and collect the penalty after notice and an opportunity for hearing, before a hearing officer designated by the department to hear the matter, upon a determination that a person willfully interfered with the department pursuant to this section. The hearing officer has the power to administer oaths on request of any party and issue subpoenas and subpoenas duces tecum. Additionally, if the violation is against a person covered by the Personnel Act, the department shall refer the matter to the agency employing the person for disciplinary action. Any party may appeal a final decision by the department to the court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

## **Chapter 91 Section 8 Laws 2007**

Section 8. Section 27-7-25 NMSA 1978 (being Laws 1990, Chapter 79, Section 6, as amended) is amended to read:

"27-7-25. EX-PARTE ORDERS FOR EMERGENCY PROTECTIVE SERVICES OR EMERGENCY PROTECTIVE PLACEMENT--NOTICE--PETITION.--

A. Upon petition by the department, the court may issue an order authorizing the provision of involuntary protective services or protective placement on an emergency basis to an adult under the criteria set forth in Subsection B of this section.

B. At the time a petition is filed or any time thereafter, the court may issue an ex-parte order authorizing the provision of involuntary protective services or involuntary protective placement upon a sworn written statement of facts showing probable cause exists to believe that:

(1) the adult is incapacitated;

(2) an emergency exists;

(3) the adult lacks the ability to consent to receive protective services or protective placement; and

(4) no person authorized by law or court order to give consent for the adult is available or willing to consent to the provision of protective services or protective placement on an emergency basis.

C. The petition for an emergency ex-parte order shall set forth:

- (1) the name, address and interest of the petitioner;
- (2) the name, age and address of the adult in need of protective services;
- (3) the facts describing the nature of the emergency;
- (4) the facts describing the nature of the adult's incapacity;
- (5) the proposed protective services or protective placement;
- (6) the petitioner's reasonable belief, together with supporting facts, about the need for emergency intervention; and
- (7) the facts showing the petitioner's attempts to obtain the adult's consent to the proposed protective services or protective placement and the outcome of those attempts.

D. An affidavit for an ex-parte order for emergency protective services or emergency protective placement may be signed by any person who has knowledge of the facts alleged or is informed of them and believes that they are true.

E. The Rules of Evidence do not apply to the issuance of an emergency ex-parte protective services or protective placement order.

F. In issuing an emergency ex-parte order, the court shall adhere to the following limitations:

- (1) only the protective services or protective placement necessary to remove the conditions creating the emergency shall be ordered, and the order shall specifically designate the proposed protective services or protective placement;

- (2) protective services or protective placement authorized by an emergency ex-parte order shall not include hospitalization or a change of residence, unless the order gives specific approval for the action;

- (3) protective services or protective placement may be provided by emergency ex-parte order only for ten days; provided that the original order may be renewed once for a period of twenty additional days upon application to the court showing that continuation of the original order is necessary to remove the conditions creating the emergency. An application for renewal of the original order shall be supported by a written report of the results of the evaluation required by Subsection C of Section 27-7-27 NMSA 1978 and copies of the actual evaluations;

- (4) the issuance of an emergency ex-parte order shall not deprive the adult of any rights except those provided for in the order;

(5) to implement an emergency ex-parte order, the court may authorize forcible entry of premises for the purposes of rendering protective services or protective placement or transporting the adult to another location for the provision of services or placement only if facts contained in the affidavit supporting the petition for ex-parte order show that attempts to gain voluntary access to the premises have failed and forcible entry is necessary; provided that persons making an authorized forcible entry shall be accompanied by a law enforcement officer; and

(6) service of an ex-parte order authorizing forcible entry shall be according to the following procedure. The order shall be served on the alleged incapacitated adult by a person authorized to serve arrest warrants and shall direct the officer to advise the adult of the nature of the protective services or protective placement that have been ordered by the court. If the order authorizes emergency protective placement, the order shall direct the officer to assist in transfer of the adult to a place designated by the court.

G. Notice of the filing of the petition and the issuance of the emergency ex-parte order, including a copy of the petition, the ex-parte order and the affidavit for ex-parte order, shall be given to the adult and the adult's spouse or, if none, the adult children or next of kin, surrogate or guardian, if any. The notice shall be given, in language reasonably understandable by its intended recipients, within twenty-four hours, excluding Saturdays, Sundays and legal holidays, from the time that the ex-parte order authorizing protective services or protective placement is issued by the court or, if the ex-parte order authorizes forcible entry, from the time the ex-parte order is served upon the incapacitated adult. The notice shall inform the recipients that a hearing will be held no later than ten days after the date the petition is filed to determine whether the conditions creating the emergency have been removed and whether the adult should be released from the court's order for protective services or protective placement.

H. Within ten days from the filing of a petition for an emergency order for protective services or protective placement, the court shall hold a hearing upon any application for renewal of the emergency order. The hearing upon an application for renewal shall be held pursuant to the provisions of Section 27-7-27 NMSA 1978.

I. The protected adult or any interested person may petition the court to have the emergency order set aside or modified at any time, notwithstanding any prior findings by the court that the adult is incapacitated.

J. If the adult continues to need protective services or protective placement after the renewal order provided in Paragraph (3) of Subsection F of this section has expired, the department or original petitioner shall immediately petition the court to appoint a conservator or guardian or to order nonemergency protective services or protective placement pursuant to Section 27-7-26 NMSA 1978.

K. The petitioner shall not be liable for filing the petition if the petitioner acted in good faith."

## **Chapter 91 Section 9 Laws 2007**

Section 9. Section 27-7-25.1 NMSA 1978 (being Laws 1990, Chapter 79, Section 7, as amended) is amended to read:

**"27-7-25.1. EMERGENCY PROTECTIVE PLACEMENT BY A LAW ENFORCEMENT OFFICER WITHOUT A COURT ORDER.--**

A. When, from personal observation of a law enforcement officer, it appears probable that an incapacitated adult will suffer immediate and irreparable physical injury or death if not immediately placed in a facility, that the adult is unable to give consent and that it is not possible due to the emergency nature of the circumstances to follow the procedures of Section 27-7-25 NMSA 1978, the law enforcement officer making that observation may transport the adult to a facility. No court order is required to authorize the law enforcement officer to act upon the officer's observation pursuant to this section.

B. A law enforcement officer who transports an incapacitated adult to a facility pursuant to the provisions of this section shall immediately notify the department of the placement.

C. The department shall file a petition pursuant to Subsection A of Section 27-7-25 NMSA 1978 within two working days after the placement of the adult by the law enforcement officer has occurred unless the department determines that the criteria for emergency removal and placement have not been met or that there is no further need for involuntary protective services or protective placement.

D. Upon receipt of notice from a law enforcement officer that an adult has been placed in a facility pursuant to the authority of this section, the department shall give notice pursuant to Subsection G of Section 27-7-25 NMSA 1978 within two working days after the placement of the adult has taken place.

E. The court shall hold a hearing on the petition filed by the department as a result of the law enforcement officer's emergency placement within ten days of the filing of the petition, pursuant to the provisions of Section 27-7-27 NMSA 1978, to determine whether the conditions creating the need for the emergency placement have been removed and whether the adult should be released from the protective placement."

## **Chapter 91 Section 10 Laws 2007**

Section 10. Section 27-7-26 NMSA 1978 (being Laws 1989, Chapter 389, Section 13, as amended) is amended to read:

**"27-7-26. NONEMERGENCY PROTECTIVE SERVICES OR PROTECTIVE PLACEMENT--FINDINGS--PETITION--ORDER.--**

A. Involuntary nonemergency protective services or protective placement shall not take place unless ordered by a court after a finding on the record based on clear and convincing evidence that:

(1) the adult is incapacitated and lacks the ability to consent;

(2) the adult is incapable of providing for the adult's own care or custody and the adult is at significant risk of abuse, neglect or exploitation that creates a substantial risk of serious physical harm to the adult or others;

(3) the adult needs care or treatment;

(4) the proposed order is substantially supported by the evaluation provided for in Subsection E of this section or, if not so supported, there are compelling reasons for ordering those protective services or that protective placement; and

(5) no less restrictive alternative course of care or treatment is available that is consistent with the incapacitated adult's welfare and safety.

B. The petition for nonemergency protective services or protective placement shall state with particularity the factual basis for the allegations specified in Subsection A of this section and shall be based on the most reliable information available to the petitioner.

C. Written notice of a petition for nonemergency protective services or protective placement shall be served upon the adult by personal service at least fourteen days prior to the time set for a hearing. Notice shall also be given to the adult's legal counsel, caretaker, guardian, conservator, surrogate, spouse and adult children or next of kin, whose names and addresses are known to the petitioner or can with reasonable diligence be ascertained. The person serving the notice shall certify to the court that the petition has been delivered and how the required notice was given. The notice shall be in language reasonably understandable by the adult who is the subject of the petition and also shall be given orally if necessary. The notice shall include:

(1) the names of all petitioners;

(2) the factual basis of the belief that protective services or protective placement is needed;

(3) the rights of the adult in the court proceedings; and

(4) the name and address of the proposed protective services or protective placement.

D. Upon the filing of a petition for nonemergency protective services or protective placement, the court shall hold a hearing pursuant to the provisions of Section 27-7-27 NMSA 1978.

E. In order to make the findings required in Paragraphs (2) through (5) of Subsection A of this section, the court shall direct that a comprehensive evaluation of the adult alleged to be in need of protective services or protective placement be conducted as provided in Subsection C of Section 27-7-27 NMSA 1978.

F. In ordering nonemergency protective placement, the court shall give consideration to the choice of residence of the adult. The court may order protective placement in a facility or with a provider.

G. The court may authorize nonemergency protective services or protective placement for an adult for a period not to exceed six months.

H. At the time of expiration of an order for nonemergency protective services or protective placement, the original petitioner may petition the court to extend its order for protective services or protective placement for an additional period not to exceed six months. The contents of the petition shall conform to the provisions of Subsections A and B of this section. Notice of the petition for the extension of protective services or protective placement shall be made in conformity with Subsection C of this section. The court shall hold a hearing to determine whether to renew the order. Any person entitled to a notice under Subsection C of this section may appear at the hearing and challenge the petition. The court shall conduct the hearing pursuant to the provisions of Section 27-7-27 NMSA 1978.

I. The services provided to or the residence of an adult that had been established pursuant to an order for nonemergency protective services or protective placement shall not be changed unless the court authorizes the change of services or transfer of residence. The adult or the adult's legal representative may petition the court to order such a change of services or transfer of residence.

J. Prior to the expiration of the nonemergency protective services or protective placement, the department shall review the need for continued services or placement, including the necessity for appointment of a conservator or guardian, and shall make such recommendation to the court."

## **Chapter 91 Section 11 Laws 2007**

Section 11. Section 27-7-27 NMSA 1978 (being Laws 1989, Chapter 389, Section 14, as amended) is amended to read:

"27-7-27. HEARING ON PETITION.--

A. The hearing on a petition for renewal of an emergency ex-parte order for protective services or protective placement or for an order for nonemergency protective services or protective placement shall be held under the following conditions:

(1) the adult shall be present unless the court determines it is impossible for the adult to be present or it is not in the adult's best interest because of a threat to that adult's health and safety;

(2) the adult has the right to counsel whether or not the adult is present at the hearing. If the adult is indigent, the court shall appoint counsel no later than the time of the filing of the petition;

(3) counsel appointed by the court pursuant to Paragraph (2) of this subsection shall interview the allegedly incapacitated adult prior to any hearing on the petition or any application for renewal of the original emergency order;

(4) the adult shall have the right to trial by jury upon request by the adult or the adult's counsel only in hearings held on petitions for nonemergency protective services or protective placement; and

(5) the adult has the right at the adult's own expense or, if indigent, at the expense of the state to secure an independent medical, psychological or psychiatric examination relevant to the issue involved in any hearing under this section and to present a report of this independent evaluation or the evaluator's personal testimony as evidence at the hearing.

B. The duty of counsel representing an adult for whom a petition for an order for emergency protective services or for nonemergency protective services or protective placement has been filed shall be to represent the adult by protecting the adult's legal rights and presenting the adult's declared position to the court.

C. The department shall establish an evaluation or assessment process for the conduct of a comprehensive physical, mental and social evaluation of an adult for whom a petition has been filed in a court for an order for nonemergency protective services or protective placement or for whom an application for renewal of an original emergency order has been made. The court shall consider the department's evaluation or assessment in determining whether to issue an order or renewal of an order for nonemergency protective services or protective placement.

D. The court shall issue for the record a statement of its findings in support of any order for renewal of emergency protective services or for nonemergency protective services or protective placement."

## **Chapter 91 Section 12 Laws 2007**

Section 12. Section 27-7-29 NMSA 1978 (being Laws 1989, Chapter 389, Section 16, as amended) is amended to read:

"27-7-29. CONFIDENTIALITY OF RECORDS--PENALTY.--

A. All records of the department, the department's designee, including a multidisciplinary team, the court and state and local agencies that are created or maintained pursuant to investigations under the Adult Protective Services Act or for whom application has ever been made for protection shall be confidential and shall not be disclosed directly or indirectly to the public.

B. The records described in Subsection A of this section shall be open to inspection only by persons with a legitimate interest in the records as follows:

(1) the alleged abused, neglected or exploited adult, or the adult's surrogate, except as to the identity of the referral source and second source information, such as medical or psychological evaluations;

(2) court personnel;

(3) law enforcement officials;

(4) department personnel;

(5) any state government social services agency in any other state;

(6) health care or mental health professionals involved in the evaluation, treatment, residential care or protection of the adult;

(7) parties and their counsel in all legal proceedings pursuant to the Adult Protective Services Act or legal actions pursuant to the Uniform Probate Code;

(8) persons who have been, or will be in the immediate future, providing care or services to the adult, except the alleged perpetrator of the abuse, neglect or exploitation;

(9) persons appointed by the court pursuant to the Uniform Probate Code to be the adult's guardian ad litem, guardian, conservator, visitor or qualified health care professional;

(10) any of the persons whom the department petitions the court appoint pursuant to the Uniform Probate Code;

(11) any other person or entity, by order of the court, having a legitimate interest in the case or the work of the court; and

(12) protection and advocacy representatives pursuant to the federal Developmental Disabilities Assistance and Bill of Rights Act, Protection and Advocacy for Individuals with Mental Illness Act or the protection and advocacy of individual rights provisions of the Rehabilitation Act.

C. Records of cases involving substantiated abuse, neglect or exploitation shall be provided as appropriate to the department of health, the district attorney's office, the medicaid fraud control unit in New Mexico, the office of the attorney general and the office of the long-term care ombudsman for appropriate additional action.

D. Any person who intentionally, unlawfully releases any information or records closed to the public pursuant to this section or releases or makes other unlawful use of records in violation of this section is guilty of a misdemeanor.

E. The department may assess a civil penalty not to exceed ten thousand dollars (\$10,000) per violation against any person that intentionally, unlawfully releases any information or records closed to the public pursuant to this section or releases or makes other unlawful use of records. The department may assess and collect the penalty, after notice and an opportunity for hearing before a hearing officer designated by the department to hear the matter, upon a determination that a person violated the provisions of this subsection. The hearing officer has the power to administer oaths on request of any party and issue subpoenas and subpoenas duces tecum. Additionally, if the violation is against a person covered by the Personnel Act, the department shall refer the matter to the agency employing the person for disciplinary action. Any party may appeal a final decision by the department to the court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

## **Chapter 91 Section 13 Laws 2007**

Section 13. Section 27-7-30 NMSA 1978 (being Laws 1989, Chapter 389, Section 17, as amended) is amended to read:

"27-7-30. DUTY TO REPORT--PENALTY.--

A. Any person, including financial institutions, having reasonable cause to believe that an incapacitated adult is being abused, neglected or exploited shall immediately report that information to the department.

B. The report required in Subsection A of this section may be made orally or in writing. The report shall include the name, age and address of the adult, the name and address of any other person responsible for the adult's care, the nature and extent of the adult's condition, the basis of the reporter's knowledge and other relevant information.

C. Any person failing or refusing to report, or obstructing or impeding any investigation, as required by Subsection A of this section is guilty of a misdemeanor.

D. The department may assess a civil penalty not to exceed ten thousand dollars (\$10,000) per violation against a person that violates the provisions of Subsection A of this section or obstructs or impedes any investigation as required pursuant to Subsection A of this section. The department may assess and collect the penalty, after notice and an opportunity for hearing before a hearing officer designated by the department to hear the matter, upon a determination that a person violated the provisions of Subsection A of this section or obstructed or impeded any investigation as required pursuant to this section. The hearing officer has the power to administer oaths on request of any party and issue subpoenas and subpoenas duces tecum. Additionally, if the violation is against a person covered by the Personnel Act, the department shall refer the matter to the agency employing the person for disciplinary action. Any party may appeal a final decision by the department to the court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

### **Chapter 91 Section 14 Laws 2007**

Section 14. REPEAL.--Sections 27-7-20 and 27-7-22 NMSA 1978 (being Laws 1989, Chapter 389, Sections 7 and 9, as amended) are repealed.

### **Chapter 91 Section 15 Laws 2007**

Section 15. EFFECTIVE DATE.--The effective date of the provisions of this act is July 2, 2007.

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House Bill 319, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 92**

AN ACT

RELATING TO MOTOR VEHICLES; REQUIRING VEHICLES TO YIELD THE RIGHT OF WAY WHEN PEDESTRIANS ARE IN CROSSWALKS.

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

### **Chapter 92 Section 1 Laws 2007**

Section 1. Section 66-7-334 NMSA 1978 (being Laws 1978, Chapter 35, Section 438) is amended to read:

"66-7-334. PEDESTRIANS' RIGHT OF WAY IN CROSSWALKS.--

A. When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is in the crosswalk.

B. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close that it is impossible for the driver to yield.

C. Subsection A of this section shall not apply under the conditions stated in Subsection B of Section 66-7-335 NMSA 1978.

D. Whenever a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of another vehicle approaching from the rear shall not overtake and pass the stopped vehicle."

## **Chapter 92 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 321, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 93**

AN ACT

RELATING TO THE STATE FAIR COMMISSION; EXCLUDING THE STATE FAIR COMMISSION FROM PROCUREMENT THROUGH THE STATE PURCHASING AGENT FOR PURCHASES UNDER TWENTY THOUSAND DOLLARS (\$20,000).

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

## **Chapter 93 Section 1 Laws 2007**

Section 1. Section 13-1-99 NMSA 1978 (being Laws 1984, Chapter 65, Section 72, as amended) is amended to read:

"13-1-99. EXCLUDED FROM CENTRAL PURCHASING THROUGH THE STATE PURCHASING AGENT.--Excluded from the requirement of procurement

through the state purchasing agent but not from the requirements of the Procurement Code are the following:

- A. procurement of professional services;
- B. small purchases having a value not exceeding one thousand five hundred dollars (\$1,500);
- C. emergency procurement;
- D. procurement of highway construction or reconstruction by the department of transportation;
- E. procurement by the judicial branch of state government;
- F. procurement by the legislative branch of state government;
- G. procurement by the boards of regents of state educational institutions named in Article 12, Section 11 of the constitution of New Mexico;
- H. procurement by the state fair commission of tangible personal property, services and construction under twenty thousand dollars (\$20,000);
- I. purchases from the instructional material fund;
- J. procurement by all local public bodies;
- K. procurement by regional education cooperatives;
- L. procurement by charter schools;
- M. procurement by each state health care institution that provides direct patient care and that is, or a part of which is, medicaid certified and participating in the New Mexico medicaid program; and
- N. procurement by the public school facilities authority."

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House Bill 649, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 94**

AN ACT

RELATING TO HEALTH CARE; AMENDING THE COUNTY MATERNAL AND CHILD HEALTH ACT TO INCLUDE TRIBES; CHANGING THE TITLE OF THAT ACT.

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

### **Chapter 94 Section 1 Laws 2007**

Section 1. Section 24-1B-1 NMSA 1978 (being Laws 1991, Chapter 113, Section 1) is amended to read:

"24-1B-1. SHORT TITLE.--Chapter 24, Article 1B NMSA 1978 may be cited as the "Maternal and Child Health Plan Act"."

### **Chapter 94 Section 2 Laws 2007**

Section 2. Section 24-1B-2 NMSA 1978 (being Laws 1991, Chapter 113, Section 2) is amended to read:

"24-1B-2. PURPOSE OF ACT.--The purpose of the Maternal and Child Health Plan Act is to encourage the development of comprehensive, community-based maternal and child health services to meet the needs of childbearing women and their families."

### **Chapter 94 Section 3 Laws 2007**

Section 3. Section 24-1B-3 NMSA 1978 (being Laws 1991, Chapter 113, Section 3) is amended to read:

"24-1B-3. DEFINITIONS.--As used in the Maternal and Child Health Plan Act:

A. "board" means the board of county commissioners of a county or leadership of a tribe;

B. "department" means the department of health;

C. "planning council" means the maternal and child health planning council; and

D. "tribe" means an Indian nation, tribe or pueblo located within the boundaries of the state."

### **Chapter 94 Section 4 Laws 2007**

Section 4. Section 24-1B-4 NMSA 1978 (being Laws 1991, Chapter 113, Section 4) is amended to read:

"24-1B-4. PLANNING COUNCIL CREATED--MEMBERSHIP.--

A. The board may create a maternal and child health planning council, and it may appoint members for terms designated by the board. The members of the planning council shall be selected to represent a broad spectrum of interests that may include elected officials, tribal officials, community-based program providers, childbearing and parenting families, residents, local school administrators, local political leaders, employees of the income support office, employees of the county field health office, maternal and child health care providers, obstetricians, family physicians, nurses, mid-level providers and hospital administrators.

B. Members of the planning council shall elect from among themselves a chair for a term designated by the board. The planning council shall meet at the call of the chair.

C. Planning council members shall not be paid, but they may receive per diem and mileage expenses as provided in the Per Diem and Mileage Act."

## **Chapter 94 Section 5 Laws 2007**

Section 5. Section 24-1B-5 NMSA 1978 (being Laws 1991, Chapter 113, Section 5) is amended to read:

"24-1B-5. MATERNAL AND CHILD HEALTH PLANS.--

A. The board or its designee with the advice of the planning council may prepare a maternal and child health plan. The plan shall have the approval of the planning council and the board before it may be submitted by the board to the department for approval.

B. Two or more boards may agree among themselves to establish a maternal and child health plan.

C. Each maternal and child health plan shall include:

(1) a needs assessment that identifies and quantifies:

(a) those populations that are unable to obtain adequate maternal and child health services;

(b) the major factors that affect accessibility to local maternal and child health services;

(c) the gaps in locally available maternal and child health services;  
and

(d) the extent to which county and tribal residents use maternal and child health services available in other counties;

(2) an inventory that identifies existing public and private providers, services and maternal and child health plans, medicaid and other governmental, tribal and charitable resources, program duplications and the county's current monetary contributions to maternal and child health programs;

(3) recommendations on how to improve and fund maternal and child health based upon the needs assessment and inventory of existing services and resources;

(4) recommendations to eliminate duplications of services, improve access and initiate new services as needed; and

(5) conclusions about the need to rely on services available in other counties and on the level of charitable, federal, state, county or tribal funding and in-kind contributions that are required to implement the maternal and child health plan fully.

D. The recommendations contained in the maternal and child health plan may be based on the development of comprehensive maternal and child health services. Development of the maternal and child health plan may include a consideration of:

(1) teen pregnancy;

(2) family planning;

(3) prenatal care;

(4) financing of perinatal care for persons not eligible for medicaid;

(5) proposals to expand provider capacity;

(6) outreach, information, referral, risk assessment and case management for both pregnant women and their children;

(7) perinatal health education projects;

(8) home visiting and social support groups;

(9) projects that reduce poor pregnancy and child outcomes;

(10) projects that enhance utilization of well-child care;

(11) projects that remove transportation barriers from perinatal services;

and

(12) projects that coordinate local community services, including those services provided by the county's state public health office.

E. The maternal and child health plan shall be updated at the request of the board or the department if the plan as implemented is not achieving the stated goals or if the needs of the local population have changed."

## **Chapter 94 Section 6 Laws 2007**

Section 6. Section 24-1B-6 NMSA 1978 (being Laws 1991, Chapter 113, Section 6) is amended to read:

"24-1B-6. MATERNAL AND CHILD HEALTH FUNDS.--

A. The department shall contract for maternal and child health services to implement a maternal and child health plan after the plan has been approved by the department.

B. As a condition of the department contracting for maternal and child health services, after an opportunity for county or tribal input, a county or tribe may be asked to contribute to the implementation of an approved maternal and child health plan based on the relative wealth of the county or tribe as measured by the population, the per capita income, the gross receipts tax base and the average property value.

C. The department shall contract for maternal and child health services to implement a maternal and child health plan based upon:

(1) the amount of funds appropriated for the purpose of carrying out the provisions of the Maternal and Child Health Plan Act;

(2) the need for services as measured by:

(a) maternal and child health indicators;

(b) the teen pregnancy rate; and

(c) maternal and child health provider availability and shortages;

and

(3) the demonstration that the services in the maternal and child health plan fit into the comprehensive outline of community-based maternal and child health services described in Subsection D of Section 24-1B-5 NMSA 1978.

D. Nothing in the Maternal and Child Health Plan Act shall prohibit the department from contracting for those categories of maternal and child health services

that it contracted for prior to the effective date of the Maternal and Child Health Care Act or that it deems essential for public health."

## **Chapter 94 Section 7 Laws 2007**

Section 7. Section 24-1B-7 NMSA 1978 (being Laws 1991, Chapter 113, Section 7) is amended to read:

### "24-1B-7. DEPARTMENT--POWERS AND DUTIES.--

A. The department shall review, evaluate and approve or reject a maternal and child health plan and it may require that a county update its maternal and child health plan.

B. The department is authorized to contract for maternal and child health services to implement maternal and child health plans, subject to the availability of appropriations for that purpose.

C. The department shall monitor and evaluate the contracts funded by the department and assess whether maternal and child health conditions are improving.

D. The department shall provide technical assistance and training to assist as needed in developing maternal and child health plans.

E. The department may gather information necessary to evaluate the effectiveness of services it contracts for through the provisions of the Maternal and Child Health Plan Act.

F. The department shall adopt all rules necessary to carry out the purposes of the Maternal and Child Health Plan Act, including:

(1) the procedures and format for applying for department approval of a maternal and child health plan;

(2) the format for maternal and child health plans;

(3) the criteria to review, evaluate and approve or reject maternal and child health plans;

(4) the procedures and format for requesting that the department procure services under a department-approved maternal and child health plan;

(5) the formula used to determine a required contribution to implement maternal and child health plans;

(6) a procedure that determines the need for maternal and child health services;

(7) the procedure to determine the distribution of state funds appropriated to implement maternal and child health plans;

(8) the procedures for gathering and reporting programmatic and financial information necessary to evaluate the effectiveness of maternal and child health services for which the department contracts pursuant to the provisions of the Maternal and Child Health Plan Act; and

(9) definitions that set an acceptable minimum standard for the services provided."

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House Bill 721

Approved March 30, 2007

## **LAWS 2007, CHAPTER 95**

### **AN ACT**

RELATING TO ACTIONS AFFECTING PROPERTY; INCREASING THE HOMESTEAD EXEMPTION AND THE PROPERTY EXEMPTION IN LIEU OF THE HOMESTEAD EXEMPTION; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 1979.

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

### **Chapter 95 Section 1 Laws 2007**

Section 1. Section 42-10-9 NMSA 1978 (being Laws 1971, Chapter 215, Section 6, as amended) is amended to read:

"42-10-9. HOMESTEAD EXEMPTION.--Each person shall have exempt a homestead in a dwelling house and land occupied by the person or in a dwelling house occupied by the person although the dwelling is on land owned by another, provided that the dwelling is owned, leased or being purchased by the person claiming the exemption. Such a person has a homestead of sixty thousand dollars (\$60,000) exempt from attachment, execution or foreclosure by a judgment creditor and from any proceeding of receivers or trustees in insolvency proceedings and from executors or administrators in probate. If the homestead is owned jointly by two persons, each joint owner is entitled to an exemption of sixty thousand dollars (\$60,000)."

## **Chapter 95 Section 2 Laws 2007**

Section 2. Section 42-10-10 NMSA 1978 (being Laws 1971, Chapter 215, Section 7, as amended by Laws 1979, Chapter 9, Section 2 and also by Laws 1979, Chapter 182, Section 4) is amended to read:

"42-10-10. EXEMPTION IN LIEU OF HOMESTEAD.--

A. Any resident of this state who does not own a homestead shall in addition to other exemptions hold exempt real or personal property in the amount of five thousand dollars (\$5,000) in lieu of the homestead exemption.

B. If the resident does not own a homestead, the sheriff or any other person or officer seeking to attach, execute or foreclose by judgment on property shall provide the resident with written notification of the resident's right to exemption in lieu of homestead as described in Subsection A of this section, together with a simple form by which the resident may designate that the resident is aware of the exemption and does or does not desire to claim the exemption. If the resident refuses to make the election provided for in this section, the sheriff, other person or officer shall proceed to attach, execute or foreclose on the resident's property. If the resident claims the exemption in lieu of homestead, the sheriff, other person or officer making attachment, execution or foreclosure by judgment shall file as part of the return a description, including the resident's stated value, of the property claimed as exempt, bearing the resident's signature witnessed by the sheriff, other person or officer seeking to attach, execute or foreclose."

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House Bill 732, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 96**

AN ACT

RELATING TO JUVENILES; PROVIDING THAT INFORMATION CONCERNING ARRESTS, DELINQUENCY PROCEEDINGS AND SOCIAL RECORDS RELATING TO A CHILD NOT BE DISCLOSED ON A PUBLIC ACCESS WEB SITE MAINTAINED BY A STATE OR LOCAL AGENCY.

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

## **Chapter 96 Section 1 Laws 2007**

Section 1. A new section of the Children's Code is enacted to read:

"INFORMATION NOT TO BE DISCLOSED ON A PUBLIC ACCESS WEB SITE.-  
- A state agency or a political subdivision of the state, including a school district, county, municipality or home-rule municipality, shall not disclose on a public access web site maintained by it any information concerning the following:

A. an arrest or detention of a child;

B. delinquency proceedings for a child;

C. an adjudication of a child;

D. an adult sentence imposed on a child, except information required to be disclosed pursuant to the Sex Offender Registration and Notification Act; or

E. social records pertaining to a child as provided in Section 32A-2-32 NMSA 1978."

## **Chapter 96 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 738, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 97**

AN ACT

RELATING TO THE OIL AND GAS RECLAMATION FUND; ENSURING THE STABILITY OF FUNDS AVAILABLE IN THE OIL AND GAS RECLAMATION FUND; INCREASING THE MAXIMUM AMOUNT TO BE HELD IN THE OIL AND GAS RECLAMATION FUND BEFORE TRIGGERING A DECREASE IN THE OIL AND GAS CONSERVATION TAX.

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

## **Chapter 97 Section 1 Laws 2007**

Section 1. Section 7-30-4 NMSA 1978 (being Laws 1959, Chapter 53, Section 4, as amended) is amended to read:

"7-30-4. OIL AND GAS CONSERVATION TAX LEVIED--COLLECTED BY DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN LIABILITY.--

A. There is levied and shall be collected by the department a tax on all products that are severed and sold. Except as provided in Subsections B and C of this section, the measure and rate of the tax shall be nineteen-hundredths percent of the taxable value of sold products. Every interest owner shall be liable for this tax to the extent of the owner's interest in the value of the products or to the extent of the owner's interest as may be measured by the value of the products. An Indian tribe, Indian pueblo or Indian shall be liable for this tax to the extent authorized or permitted by law.

B. In the event the unencumbered balance in the oil and gas reclamation fund equals or exceeds two million five hundred thousand dollars (\$2,500,000) for any one-month period computed after receipt of the tax for that month, the rate of the tax levied by this section shall be eighteen-hundredths percent beginning with the first day of the second month following the month in which the unencumbered balance equaled or exceeded two million five hundred thousand dollars (\$2,500,000).

C. After having been reduced to eighteen-hundredths percent, the rate of the tax imposed by this section shall remain at that rate until the unencumbered balance in the oil and gas reclamation fund is less than or equal to five hundred thousand dollars (\$500,000) for any

one-month period computed after receipt of the tax for that month, in which event the rate of the tax levied by this section shall be increased to nineteen-hundredths percent beginning with the first day of the second month following the month in which the unencumbered balance equaled or was less than five hundred thousand dollars (\$500,000).

D. The department shall notify taxpayers of any change in the rate of tax imposed by this section."

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House Bill 777

Approved March 30, 2007

## **LAWS 2007, CHAPTER 98**

AN ACT

RELATING TO PUBLIC HOLIDAYS; DECLARING THE SECOND MONDAY IN JUNE OF EACH YEAR "HEMOPHILIA AWARENESS DAY".

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

### **Chapter 98 Section 1 Laws 2007**

Section 1. HEMOPHILIA AWARENESS DAY.--The governor shall declare the second Monday in June of each year "Hemophilia Awareness Day".

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House Bill 922

Approved March 30, 2007

## **LAWS 2007, CHAPTER 99**

AN ACT

RELATING TO FLOOD CONTROL DISTRICTS; CREATING THE EASTERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY; PROVIDING POWERS AND DUTIES; PROVIDING FOR A FLOOD CONTROL SYSTEM; DECLARING AN EMERGENCY.

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

### **Chapter 99 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "Eastern Sandoval County Arroyo Flood Control Act".

### **Chapter 99 Section 2 Laws 2007**

Section 2. LEGISLATIVE DECLARATION.--It is declared as a matter of legislative determination that:

A. the organization of the authority hereby created having the purposes, powers, duties, privileges, immunities, rights, liabilities and disabilities provided in the Eastern Sandoval County Arroyo Flood Control Act will serve a public use and will promote the health, safety, prosperity, security and general welfare of the inhabitants thereof and of the state;

B. the acquisition, improvement, maintenance and operation of any project authorized in the Eastern Sandoval County Arroyo Flood Control Act is in the public interest and constitutes a part of the established and permanent policy of the state;

C. the authority hereby organized shall be a body corporate and politic, a quasi-municipal corporation and a political subdivision of the state;

D. the flood control system hereby authorized and directed to be acquired will be of special benefit to the property within the boundaries of the authority organized and created in the Eastern Sandoval County Arroyo Flood Control Act;

E. the notice provided for in the Eastern Sandoval County Arroyo Flood Control Act for each hearing and action to be taken is reasonably calculated to inform any person of interest in any proceedings under that act that may directly and adversely affect that person's legally protected interests;

F. a general law cannot be made applicable to the designated flood control system and the provisions appertaining thereto in the Eastern Sandoval County Arroyo Flood Control Act because of a number of atypical and special conditions concerning them; and

G. for the accomplishment of these purposes, the provisions of the Eastern Sandoval County Arroyo Flood Control Act shall be broadly construed.

## **Chapter 99 Section 3 Laws 2007**

Section 3. DECISION OF BOARD OR GOVERNING BODY FINAL.--The action and decision of the board as to all matters passed upon by it in relation to any action, matter or thing provided in the Eastern Sandoval County Arroyo Flood Control Act shall be final and conclusive, if supported by substantial evidence, unless the action and decision are arbitrary, capricious or fraudulent.

## **Chapter 99 Section 4 Laws 2007**

Section 4. DEFINITIONS.--Except where the context otherwise requires, as used in the Eastern Sandoval County Arroyo Flood Control Act:

A. "acquisition" or "acquire" means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the federal government, any public body or person, endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract or other acquirement, or any combination thereof, of facilities, other property, any project or an interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act;

B. "authority" means the eastern Sandoval county arroyo flood control authority;

C. "board" means the board of directors of the authority;

D. "chair" means the chair of the board and president of the authority;

E. "condemnation" or "condemn" means the acquisition by the exercise of the power of eminent domain of property for any facilities, other property, project or an interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act. The authority may exercise in the state the power of eminent domain, either within or without the authority and, in the manner provided by law for the condemnation of private property for public use, may take any property necessary to carry out any of the objects or purposes of the Eastern Sandoval County Arroyo Flood Control Act. In the event the construction of any facility or project authorized by the Eastern Sandoval County Arroyo Flood Control Act, or any part thereof, makes necessary the removal and relocation of any public utilities, whether on private or public right of way, the authority shall reimburse the owner of the public utility facility for the expense of removal and relocation, including the cost of any necessary land or rights in land;

F. "cost" or "cost of the project", or words of similar import, means all, or any part designated by the board, of the cost of any facilities, project or interest therein being acquired and of all or any property, rights, easements, privileges, agreements and franchises deemed by the authority to be necessary or useful and convenient therefor or in connection therewith, which cost, at the option of the board, may include all or any part of the incidental costs pertaining to the project, including without limiting the generality of the foregoing, preliminary expenses advanced by any municipality or other public body from funds available for use therefor in the making of surveys, preliminary plans, estimates of cost, other preliminaries, the costs of appraising, printing, employing engineers, architects, fiscal agents, attorneys at law, clerical help, other agents or employees, the costs of capitalizing interest or any discount on securities, of inspection, of any administrative, operating and other expenses of the authority prior to the levy and collection of taxes, and of reserves for working capital, operation, maintenance or replacement expenses or for payment or security of principal of or interest on any securities, the costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the project, the taking of options, the issuance of securities, the filing or recordation of instruments, the levy and collection of taxes and installments thereof, the costs of reimbursements by the authority to any public body, the federal government or any person of any money theretofore expended for or in connection with any facility or project and all other expenses necessary or desirable and appertaining to any project, as estimated or otherwise ascertained by the board;

G. "director" means a member of the board;

H. "disposal" or "dispose" means the sale, destruction, razing, loan, lease, gift, grant, transfer, assignment, mortgage, option to sell, other contract or other disposition, or any combination thereof, of facilities, other property, any project or an interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act;

I. "engineer" means any engineer in the permanent employ of the authority or any independent competent engineer or firm of such engineers employed by the authority in connection with any facility, property, project or power authorized by the Eastern Sandoval County Arroyo Flood Control Act;

J. "equipment" or "equip" means the furnishing of all necessary or desirable, related or appurtenant, facilities, or any combination thereof, appertaining to any facilities, property, project or interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act;

K. "facility" means any of the water facilities, sewer facilities or other property appertaining to the flood control system of the authority;

L. "federal government" means the United States or any agency, instrumentality or corporation thereof;

M. "federal securities" means the bills, certificates of indebtedness, notes or bonds that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States;

N. "governing body" means the city council, city commission, board of commissioners, board of trustees, board of directors or other legislative body of the public body proceeding under the Eastern Sandoval County Arroyo Flood Control Act, in which body the legislative powers of the public body are vested;

O. "improvement" or "improve" means the extension, widening, lengthening, betterment, alteration, reconstruction, repair or other improvement, or any combination thereof of facilities, other property, project or any interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act;

P. "mailed notice" or notice by "mail" means the giving by the engineer, secretary or any deputy thereof, as determined by the board, of any designated written or printed notice addressed to the last known owner of each tract of real property in question or other designated person at the last known address, by deposit, at least ten days prior to the designated hearing or other time or event, in the United States mail, postage prepaid, as first-class mail. In the absence of fraud, the failure to mail any such notice shall not invalidate any proceedings under the Eastern Sandoval County Arroyo Flood Control Act. The names and addresses of those property owners shall be obtained from the records of the county assessor or from such other source as the secretary or the engineer deems reliable. Any list of such names and addresses may be revised from time to time, but such a list need not be revised more frequently than at twelve-month intervals. Any mailing of any notice required shall be verified by the affidavit or certificate of the engineer, secretary, deputy or other person mailing the notice, which verification shall be retained in the records of the authority at least until all taxes and securities appertaining thereto have been paid in full or any claim is barred by a statute of limitations;

Q. "municipality" means any incorporated city, town or village in the state, whether incorporated or governed under a general act, special legislative act or special charter of any type. "Municipal" pertains to municipality;

R. "person" means any human being, association, partnership, firm or corporation, excluding a public body and excluding the federal government;

S. "president" means the president of the authority and the chair of the board;

T. "project" means any structure, facility, undertaking or system that the authority is authorized to acquire, improve, equip, maintain or operate. A project may consist of all kinds of personal and real property. A project shall appertain to the flood control system that the authority is authorized and directed to provide within and without the authority's boundaries;

U. "property" means real property and personal property;

V. "publication" or "publish" means publication in at least the one newspaper designated as the authority's official newspaper and published in the authority in the English language at least once a week and of general circulation in the authority. Except as otherwise specifically provided or necessarily implied, "publication" or "publish" also means publication for at least once a week for three consecutive weeks by three weekly insertions, the first publication being at least fifteen days prior to the designated time or event, unless otherwise so stated. It is not necessary that publication be made on the same day of the week in each of the three calendar weeks, but not less than fourteen days shall intervene between the first publication and the last publication, and publication shall be complete on the day of the last publication. Any publication required shall be verified by the affidavit of the publisher and filed with the secretary;

W. "public body" means the state or any agency, instrumentality or corporation thereof or any municipality, school district, other type of district or any other political subdivision of the state, excluding the authority and excluding the federal government;

X. "qualified elector" means a person qualified to vote in general elections in the state, who is a resident of the authority at the time of any election held under the provisions of the Eastern Sandoval County Arroyo Flood Control Act or at any other time in reference to which the term "qualified elector" is used;

Y. "real property" means:

- (1) land, including land under water;
- (2) buildings, structures, fixtures and improvements on land;
- (3) any property appurtenant to or used in connection with land; and

(4) every estate, interest, privilege, easement, franchise and right in land, legal or equitable, including without limiting the generality of the foregoing, rights of way, terms for years and liens, charges or encumbrances by way of judgment, mortgage or otherwise and the indebtedness secured by such liens;

Z. "secretary" means the secretary of the authority;

AA. "secretary of state" means the secretary of state of New Mexico;

BB. "securities" means any notes, warrants, bonds, temporary bonds or interim debentures or other obligations of the authority or any public body appertaining to any project or interest therein authorized by the Eastern Sandoval County Arroyo Flood Control Act;

CC. "sewer facilities" means any one or more of the various devices used in the collection, channeling, impounding or disposition of storm, flood or surface drainage waters, including all inlets, collection, drainage or disposal lines, canals, intercepting sewers, outfall sewers, all pumping, power and other equipment and appurtenances, all extensions, improvements, remodeling, additions and alterations thereof and any rights or interest in such sewer facilities;

DD. "sewer improvement" or "improve any sewer" means the acquisition, reacquisition, improvement, reimprovement or repair of any storm sewer or combination storm and sanitary sewer, including but not limited to collecting and intercepting sewer lines or mains, submains, trunks, laterals, outlets, ditches, ventilation stations, pumping facilities, ejector stations and all other appurtenances and machinery necessary, useful or convenient for the collection, transportation and disposal of storm water;

EE. "state" means the state of New Mexico or any agency, instrumentality or corporation thereof;

FF. "street" means any street, avenue, boulevard, alley, highway or other public right of way used for any vehicular traffic;

GG. "taxes" means general (ad valorem) taxes pertaining to any project authorized by the Eastern Sandoval County Arroyo Flood Control Act; and

HH. "treasurer" means the treasurer of the authority.

## **Chapter 99 Section 5 Laws 2007**

Section 5. CREATION OF AUTHORITY.--There is created a flood control authority to be known and designated as the "eastern Sandoval county arroyo flood control authority".

## **Chapter 99 Section 6 Laws 2007**

Section 6. BOUNDARIES OF AUTHORITY.--The boundaries of the authority are as follows: a portion of southern Sandoval county bounded on the east by a line following the eastern boundary of range 5 east of the New Mexico principal meridian, on the south by the Pueblo of Sandia and the Cibola national forest, on the west by the Rio Grande and on the north by a line following the northern boundary of township 13 north of the New Mexico principal meridian. The boundary of the district is more particularly described as follows: beginning at the southeast corner of projected section 1, township 12 north, range 5 east of the New Mexico principal meridian, that point also being the southeast corner of herein described boundary; thence proceeding in a westerly direction along a line coincident with the northern boundary of the Cibola national forest and of the Pueblo of Sandia to a point along the west bank of the Rio Grande within projected section 1, township 12 north, range 3 east of the New Mexico principal meridian; thence in a northeasterly direction along the west bank of the Rio Grande to a point in the northwest corner of section 1, township 13 north, range 4 east of the New Mexico principal meridian; thence east along a line following the northern boundary of township 13 north of the New Mexico principal meridian for approximately seven miles to a point in the northeast corner of section 1, township 13 north, range 5 east of the New Mexico principal meridian; thence in a southerly direction approximately seven miles to the southeast corner of projected section 1, township 12 north, range 5 east of the New Mexico principal meridian, which point is the southeast corner and point of beginning of the district. All lands held in trust or ownership by the federal government or an Indian pueblo located within the boundaries identified in this section shall be excluded from the authority of the authority.

## **Chapter 99 Section 7 Laws 2007**

Section 7. PETITION FOR EXCLUSION.--Within one hundred eighty days from the effective date of the Eastern Sandoval County Arroyo Flood Control Act, a written, signed and acknowledged petition against the acquiring of the flood control system provided for in Section 19 of that act may be filed with the board by the owners of property of at least thirty percent of the value of the property provided to be taxed in that act, based upon the assessed valuation of that property for general taxes for the year preceding the year of making the petition. If there is real estate in the authority that has not been separately assessed by the taxing authorities, the board shall value such real estate for the purpose of such petition on the same basis of valuation as other real estate similarly situated that has been separately assessed. The board shall, as soon as possible, examine such petition, if made, and canvass and pass upon and determine its sufficiency, and its action shall be final. If the petition is found to contain the names of the owners of property of thirty percent of the total valuation of the property to be taxed under the Eastern Sandoval County Arroyo Flood Control Act and is found to be sufficient, then the flood control system shall not be acquired; provided that no action under the terms of that act shall be delayed during the period of one hundred eighty days, except that no bonds shall be issued during that time.

## **Chapter 99 Section 8 Laws 2007**

Section 8. BOARD OF DIRECTORS.--The governing body of the authority is a board of directors consisting of five qualified electors of the authority. All powers, rights, privileges and duties vested in or imposed upon the authority are exercised and performed by and through the board of directors; provided that the exercise of any executive, administrative and ministerial powers may be, by the board, delegated and redelegated to officers and employees of the authority or to any officer or employee contracted by agreement to manage and administer the operations of the authority. Except for the first directors appointed as provided for in Section 9 of the Eastern Sandoval County Arroyo Flood Control Act or elected as provided in Section 10 of that act and except for any director chosen to fill an unexpired term, the term of each director commences on the first day of January next following a general election in the state and runs for six years. Each director, subject to such exceptions, shall serve a six-year term ending on the first day of January next following a general election, and each director shall serve until a successor has been duly chosen and qualified.

## **Chapter 99 Section 9 Laws 2007**

### Section 9. APPOINTMENT OF FIRST BOARD--INITIAL MANAGEMENT.--

A. When the Eastern Sandoval County Arroyo Flood Control Act goes into effect, the governor shall forthwith appoint five qualified electors of the authority as the directors comprising the first board. They shall serve until their successors have been elected and qualified. Immediately upon their appointment, the five directors shall meet, qualify and choose officers, as provided for organizational meetings in Section 13 of the Eastern Sandoval County Arroyo Flood Control Act.

B. Immediately following the appointment of the first board of directors, the management and administration of the authority may be performed by the southern Sandoval county arroyo flood control authority, for a reasonable fee, until the first board election for the authority is held. Subsequent to the election of the first board of the authority, the authority may enter into an agreement with the southern Sandoval county arroyo flood control authority for the continued management and administration of the authority.

## **Chapter 99 Section 10 Laws 2007**

Section 10. ELECTION OF OFFICERS.--At the time that a proposal to incur debt is first submitted to the qualified electors or at the first general election next following the effective date of the Eastern Sandoval County Arroyo Flood Control Act, whichever occurs first, the qualified electors of the authority shall elect five qualified directors, two to serve a term ending January 1, 2011, two to serve a term ending January 1, 2013 and one to serve a term ending January 1, 2015. At the first election, the five candidates receiving the highest number of votes shall be elected as directors. The terms of the directors shall be determined by lot at their organizational meeting. At each general election thereafter, the qualified electors of the authority shall elect similarly one or two qualified electors as directors to serve six-year terms as directors and as successors to

the directors whose terms end on the first day of January next following each such election. Nothing in the Eastern Sandoval County Arroyo Flood Control Act shall be construed as preventing a qualified elector of the authority from being elected or reelected as a director to succeed himself. If there is only one vacancy on the board, the candidate receiving the highest number of votes shall be elected as director. If there are two vacancies on the board, the candidate receiving the highest number of votes and the candidate receiving the next highest number of votes shall be elected as directors.

## **Chapter 99 Section 11 Laws 2007**

Section 11. NOMINATION OF DIRECTORS.--Not later than forty-five days before a proposal to incur debt is first submitted to the qualified electors or at the first general election next following the effective date of the Eastern Sandoval County Arroyo Flood Control Act, whichever occurs first, written nominations of any candidate as director may be filed with the secretary of the board. Each nomination of any candidate shall be signed by not less than fifty qualified electors, regardless of whether or not nominated therein, shall designate therein the name of the candidates thereby nominated and shall recite that the subscribers thereto are qualified electors and that the candidate or candidates designated therein are qualified electors of the authority. No written nomination may designate more qualified electors as candidates than there are vacancies. No qualified elector may nominate more than one candidate for any vacancy. If a candidate does not withdraw the candidate's name before the first publication of the notice of election, the candidate's name shall be placed on the ballot. For any election held after November 2008, nominations shall be made by qualified electors in accordance with the procedures and limitations of this section, except that such nominations shall be filed with the secretary of the board not later than the fourth Tuesday in June preceding the general election.

## **Chapter 99 Section 12 Laws 2007**

Section 12. FILLING VACANCIES ON THE BOARD.--Upon a vacancy occurring in the board by reason of death, change of residence, resignation or for any other reason, the governor shall appoint a qualified elector of the authority as successor to serve the unexpired term.

## **Chapter 99 Section 13 Laws 2007**

Section 13. ORGANIZATIONAL MEETINGS.--Except for the first board, each board shall meet on the first business day next following the first day of January in each odd-numbered year, at the office of the board within the authority. Each member of the board, before entering upon the member's official duties, shall take and subscribe on oath that the member will support the constitution of the United States and the constitution and laws of New Mexico and that the member will faithfully and impartially discharge the duties of the office to the best of the member's ability, which oath shall be filed in the office of the secretary of state. Each director shall, before entering upon the director's official duties, give a bond to the authority in the sum of ten thousand dollars

(\$10,000) with good and sufficient surety, conditioned for the faithful performance of all of the duties of the director's office, without fraud, deceit or oppression, and the accounting for all money and property coming into the director's hands and the prompt and faithful payment of all money and the delivering of all property coming into the director's custody or control belonging to the authority to the director's successors in office. Premiums on all bonds provided for in this section shall be paid by the authority and all such bonds shall be kept on file in the office of the secretary of state.

## **Chapter 99 Section 14 Laws 2007**

Section 14. BOARD'S ADMINISTRATIVE POWERS.--The board may exercise the following powers:

A. fix the time and place at which its regular meetings will be held within the authority and provide for the calling and holding of special meetings;

B. adopt and amend or otherwise modify bylaws and rules for procedure;

C. select one director as chair of the board and president of the authority, and another director as chair pro tem of the board and president pro tem of the authority, and choose a secretary and a treasurer of the board and authority, each of which two positions may be filled by a person who is, or is not, a director, and both of which positions may, or may not, be filled by one person;

D. prescribe by resolution a system of business administration and create all necessary offices and establish and re-establish the powers, duties and compensation of all officers and employees;

E. require and fix the amount of all official bonds necessary or desirable and convenient in the opinion of the board for the protection of the funds and property of the authority, subject to the provisions of Section 13 of the Eastern Sandoval County Arroyo Flood Control Act;

F. prescribe a method of auditing and allowing or rejecting claims and demands;

G. provide a method for the letting of contracts on a fair and competitive basis for the construction of works, any facility or any project or any interest therein or the performance or furnishing of labor, materials or supplies as required in the Eastern Sandoval County Arroyo Flood Control Act;

H. designate an official newspaper published in the authority in the English language and direct additional publication in any newspaper where it deems that the public necessity may so require; and

I. make and pass resolutions and orders on behalf of the authority not repugnant to the provisions of the Eastern Sandoval County Arroyo Flood Control Act, necessary

or proper for the government and management of the affairs of the authority, for the execution of the powers vested in the authority and for carrying into effect the provisions of that act.

## **Chapter 99 Section 15 Laws 2007**

Section 15. RECORDS OF BOARD.--On all resolutions and orders, the roll shall be called, and the ayes and nays shall be recorded. All resolutions and orders, as soon as may be after their passage, shall be recorded in a book kept for that purpose and be authenticated by the signature of the presiding officer of the board and the secretary. Every legislative act of the board of a general or permanent nature shall be by resolution. The book of resolutions and orders is a public record. A record shall also be made of all other proceedings of the board, minutes of all meetings, certificates, contracts, bonds given by officers, employees and any other agents of the authority, and all corporate acts, which record is also a public record. The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the authority in a permanent record, which is also a public record. Any permanent record of the authority shall be open for inspection by any qualified elector thereof, by any other interested person or by any representative of the federal government or any public body. All records are subject to audit as provided by law for political subdivisions.

## **Chapter 99 Section 16 Laws 2007**

Section 16. MEETINGS OF THE BOARD.--All meetings of the board shall be held within the authority and shall be open to the public. No business of the board shall be transacted except at a regular or special meeting at which a quorum consisting of at least three-fifths of the total membership of the board is present. Any action of the board requires the affirmative vote of a majority of the directors present and voting. A smaller number of directors than a quorum may adjourn from time to time and may compel the attendance of absent members in the manner and under such penalties as the board may provide.

## **Chapter 99 Section 17 Laws 2007**

Section 17. COMPENSATION OF DIRECTORS.--Directors shall receive no compensation for their services as a director, officer, engineer, attorney, employee or other agent of the authority. Directors may be reimbursed for expenses incurred by them on authority business with approval of the board.

## **Chapter 99 Section 18 Laws 2007**

Section 18. INTEREST IN CONTRACTS AND PROPERTY DISQUALIFICATIONS.--No director or officer, employee or agent of the authority may be interested in any contract or transaction with the authority except in the director's or officer's official representative capacity or as provided, except for any contract of employment with the authority. Neither the holding of any office nor employment in the

government of any public body or the federal government nor the owning of any property within the state, within or without the authority, may be deemed a disqualification for membership on the board or employment by the authority, or a disqualification for compensation for services as an officer, employee or agent of the authority, except as provided in Section 17 of the Eastern Sandoval County Arroyo Flood Control Act.

## **Chapter 99 Section 19 Laws 2007**

Section 19. FLOOD CONTROL SYSTEM--HEARINGS.--The authority is authorized, empowered and directed, subject to the provisions of Section 7 of the Eastern Sandoval County Arroyo Flood Control Act, to acquire, equip, maintain and operate a flood control system for the benefit of the authority and the inhabitants thereof, after the board has made such preliminary studies and otherwise taken such action as it determines to be necessary or desirable as preliminaries. The flood control system consists of such facilities as the board may determine. When a comprehensive program for the acquisition of the flood control system satisfactory to the board is available, it shall be tentatively adopted. The program need only describe the proposed flood control system in general terms and not in detail. A public hearing on the proposed program shall be scheduled, and notice of the hearing shall be given by publication. After the hearing and any adjournments of that hearing that may be ordered, the board may either require changes to be made in the program as the board may consider desirable or the board may approve the program as prepared. If any substantial changes to the program are ordered at any time, a further hearing shall be held pursuant to notice that shall be given by publication.

## **Chapter 99 Section 20 Laws 2007**

Section 20. IMPLEMENTING POWERS.--The board may:

A. acquire, improve, equip, maintain and operate any project or facility for the control of flood and storm waters of the authority and the flood and storm waters of streams that have their sources outside of the authority but which streams and the flood waters thereof flow into the authority;

B. protect from such floods or storm waters the water courses, watersheds, public highways, life and property in the authority; and

C. exercise the right of eminent domain, either within or without the authority, in the manner provided by law for the condemnation of private property for public use.

## **Chapter 99 Section 21 Laws 2007**

Section 21. PROTECTION OF PROPERTY RIGHTS.--It is declared that the use of the property, lands, rights of way, easements or materials that may be condemned, taken or appropriated under the provisions of the Eastern Sandoval County Arroyo

Flood Control Act is a public use subject to the regulation and control of the state in the manner prescribed by law; but nothing in that act shall be deemed to authorize the authority or public body or person to divert the waters of any river, creek, stream, arroyo, irrigation system, canal or ditch from its channel to the detriment of any person, any public body or the federal government having any interest in such river, creek, stream, arroyo, irrigation system, canal or ditch, or the waters thereof or therein, unless compensation is ascertained and paid therefor under the laws authorizing the taking of private property for public use.

## **Chapter 99 Section 22 Laws 2007**

Section 22. ADDITIONAL POWERS OF THE AUTHORITY.--The authority may exercise the following duties, privileges, immunities, rights, liabilities and disabilities appertaining to a public body politic and corporate and constituting a quasi-

municipal corporation and political subdivision of the state established as an instrumentality exercising public and essential governmental and proprietary functions to provide for the public health, safety and general welfare:

- A. perpetual existence and succession;
- B. adopt, have and use a corporate seal and alter the same at pleasure;
- C. sue and be sued and be a party to suits, actions and proceedings;
- D. commence, maintain, intervene in, defend, compromise, terminate by settlement or otherwise and otherwise participate in and assume the cost and expense of any and all actions and proceedings now or hereafter begun and appertaining to the authority, its board, its officers, agents or employees, or any of the authority's duties, privileges, immunities, rights, liabilities and disabilities, or the authority's flood control system, other property of the authority or any project;
- E. enter into contracts and agreements, including but not limited to contracts with the federal government, the state and any other public body;
- F. borrow money and issue securities evidencing any loan to or amount due by the authority, provide for and secure the payment of any securities and the rights of the holders of those securities and purchase, hold and dispose of securities as provided in the Eastern Sandoval County Arroyo Flood Control Act;
- G. refund any loan or obligation of the authority and issue refunding securities to evidence such loan or obligation without any election;
- H. purchase, trade, exchange, encumber and otherwise acquire, maintain and dispose of property and interests in that property;

I. levy and cause to be collected general ad valorem taxes on all property subject to property taxation within the authority; provided that the total tax levy, excluding any levy for the payment of any debt of the authority authorized pursuant to the Eastern Sandoval County Arroyo Flood Control Act, for any fiscal year shall not exceed an aggregate total of two dollars (\$2.00), or any lower amount required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon this tax levy, for each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, by certifying, on or before the fifteenth day of July in each year in which the board determines to levy a tax, to the board of county commissioners of Sandoval county, or by such other date as the laws of the state may prescribe to such other body having authority to levy taxes within each county wherein the authority has any territory, the rate so fixed, with directions that, at the time and in the manner required by law for levying taxes for other purposes, such body having authority to levy taxes shall levy the tax upon the net taxable value of all property subject to property taxation within the authority, in addition to such other taxes as may be levied by such body, as provided in Sections 23 through 27 of the Eastern Sandoval County Arroyo Flood Control Act. No taxes may be levied and collected for any purpose, or any contract made, until a bond issue has been submitted to and approved by the qualified electors as provided in the Eastern Sandoval County Arroyo Flood Control Act;

J. hire and retain officers, agents, employees, engineers, attorneys and any other persons, permanent or temporary, necessary or desirable to effect the purposes of the Eastern Sandoval County Arroyo Flood Control Act, defray any expenses incurred thereby in connection with the authority and acquire office space, equipment, services, supplies, fire and extended coverage insurance, use and occupancy insurance, workers' compensation insurance, property damage insurance, public liability insurance for the authority and its officers, agents and employees and other types of insurance, as the board may determine; provided, however, that no provision in that act authorizing the acquisition of insurance shall be construed as waiving any immunity of the authority or any director, officer or agent thereof and otherwise existing under the laws of the state;

K. condemn property for public use;

L. acquire, improve, equip, hold, operate, maintain and dispose of a flood control system, storm sewer facilities, project and appurtenant works, or any interest therein, wholly within the authority, or partially within and partially without the authority, and wholly within, wholly without or partially within and partially without any public body all or any part of the area of which is situated within the authority;

M. pay or otherwise defray the cost of any project;

N. pay or otherwise defray and contract so to pay or defray, for any term not exceeding fifty years, without an election, except as otherwise provided in the Eastern Sandoval County Arroyo Flood Control Act, the principal of, any interest on and any other charges appertaining to, any securities or other obligations of the federal

government, any public body or person incurred in connection with any such property so acquired by the authority;

O. establish and maintain facilities within or without the authority, across or along any public street, highway, bridge, viaduct or other public right of way or in, upon, under or over any vacant public lands, which public lands are now or may become the property of the state, or across any stream of water or water course, without first obtaining a franchise from the municipality, county or other public body having jurisdiction over the same; provided that the authority shall cooperate with any public body having such jurisdiction, shall promptly restore any such street, highway, bridge, viaduct or other public right of way to its former state of usefulness as nearly as may be and shall not use the same in such manner as to impair completely or unnecessarily the usefulness thereof;

P. deposit any money of the authority, subject to the limitations in Article 8, Section 4 of the constitution of New Mexico, in any banking institution within or without the state and secured in such manner and subject to such terms and conditions as the board may determine, with or without the payment of any interest on any such deposit;

Q. invest any surplus money in the authority treasury, including such money in any sinking or reserve fund established for the purpose of retiring any securities of the authority, not required for the immediate necessities of the authority, in its own securities or in federal securities, by direct purchase of any issue of such securities, or part thereof, at the original sale of the same, or by the subsequent purchase of such securities;

R. sell any such securities thus purchased and held, from time to time;

S. reinvest the proceeds of any such sale in other securities of the authority or in federal securities, as provided in Subsection Q of this section;

T. sell in season from time to time such securities thus purchased and held, so that the proceeds may be applied to the purposes for which the money with which such securities were originally purchased was placed in the treasury of the authority;

U. accept contributions or loans from the federal government for the purpose of financing the planning, acquisition, improvement, equipment, maintenance and operation of any enterprise in which the authority is authorized to engage and enter into contracts and cooperate with and accept cooperation and participation from the federal government for these purposes;

V. enter, without any election, into joint operating or service contracts and agreements, acquisition, improvement, equipment or disposal contracts or other arrangements, for any term not exceeding fifty years, with the federal government, any public body or any person concerning storm sewer facilities, or any project, whether acquired by the authority or by the federal government, any public body or any person,

and accept grants and contributions from the federal government, any public body or any person in connection therewith;

W. enter into and perform, without any election, when determined by the board to be in the public interest and necessary for the protection of the public health, contracts and agreements, for any term not exceeding fifty years, with the federal government, any public body or any person for the provision and operation by the authority of storm sewer facilities;

X. enter into and perform, without any election, contracts and agreements with the federal government, any public body or any person for or concerning the planning, construction, lease or other acquisition, improvement, equipment, operation, maintenance, disposal, and the financing of any project, including but not necessarily limited to any contract or agreement for any term not exceeding fifty years;

Y. enter upon any land, make surveys, borings, soundings and examinations for the purposes of the authority, locate the necessary works of any project and roadways and other rights of way appertaining to any project authorized in the Eastern Sandoval County Arroyo Flood Control Act; and acquire all property necessary or convenient for the acquisition, improvement or equipment of such works;

Z. cooperate with and act in conjunction with the state, or any of its engineers, officers, boards, commissions or departments, or with the federal government or any of its engineers, officers, boards, commissions or departments, or with any other public body or any person in the acquisition, improvement or equipment of any project for the controlling of flood or storm waters of the authority, or for the protection of life or property therein, or for any other works, acts or purposes provided for in the Eastern Sandoval County Arroyo Flood Control Act, and adopt and carry out any definite plan or system of work for any such purpose;

AA. cooperate with the federal government or any public body by an agreement therewith by which the authority may:

(1) acquire and provide, without cost to the cooperating entity, the land, easements and rights of way necessary for the acquisition, improvement or equipment of the flood control system or any project;

(2) hold and save harmless the cooperating entity free from any claim for damages arising from the acquisition, improvement, equipment, maintenance and operation of the flood control system or any project;

(3) maintain and operate any project in accordance with regulations prescribed by the cooperating entity; and

(4) establish and enforce flood channel limits and regulations, if any, satisfactory to the cooperating entity;

BB. carry on technical and other investigations of all kinds, make measurements, collect data and make analyses, studies and inspections pertaining to control of floods, sewer facilities, and any project, both within and without the authority, and for this purpose the authority has the right of access through its authorized representative to all lands and premises within the state;

CC. have the right to provide from revenues or other available funds an adequate fund for the improvement and equipment of the authority's flood control system or of any parts of the works and properties of the authority;

DD. prescribe and enforce reasonable rules and regulations for the prevention of further encroachment upon existing defined waterways, by their enlargement or other modification, for additional waterway facilities to prevent flooding;

EE. require any person desiring to make a connection to any storm water drain or flood control facility of the authority or to cause storm waters to be emptied into any ditch, drain, canal, floodway or other appurtenant structure of the authority firstly to make application to the board to make the connection and to require the connection to be made in such manner as the board may direct;

FF. refuse, if reasonably justified by the circumstances, permission to make any connection designated in Subsection DD or EE of this section;

GG. make and keep records in connection with any project or otherwise concerning the authority;

HH. arbitrate any differences arising in connection with any project or otherwise concerning the authority;

II. have the management, control and supervision of all the business and affairs appertaining to any project herein authorized, or otherwise concerning the authority, and of the acquisition, improvement, equipment, operation and maintenance of any such project;

JJ. prescribe the duties of officers, agents, employees and other persons and fix their compensation; provided that the compensation of employees and officers shall be established at prevailing rates of pay for equivalent work;

KK. enter into contracts of indemnity and guaranty, in such form as may be approved by the board, relating to or connected with the performance of any contract or agreement that the authority is empowered to enter into under the provisions of the Eastern Sandoval County Arroyo Flood Control Act or of any other law of the state;

LL. provide, by any contract for any term not exceeding fifty years, or otherwise, without an election:

(1) for the joint use of personnel, equipment and facilities of the authority and any public body, including without limitation public buildings constructed by or under the supervision of the board of the authority or the governing body of the public body concerned, upon such terms and agreements and within such areas within the authority as may be determined, for the promotion and protection of health, comfort, safety, life, welfare and property of the inhabitants of the authority and any such public body; and

(2) for the joint employment of clerks, stenographers and other employees appertaining to any project, now existing or hereafter established in the authority, upon such terms and conditions as may be determined for the equitable apportionment of the expenses therefrom resulting;

MM. obtain financial statements, appraisals, economic feasibility reports and valuations of any type appertaining to any project or any property pertaining thereto;

NN. adopt any resolution authorizing a project or the issuance of securities, or both, or otherwise appertaining thereto, or otherwise concerning the authority;

OO. make and execute a mortgage, deed of trust, indenture or other trust instrument appertaining to a project or to any securities authorized in the Eastern Sandoval County Arroyo Flood Control Act, or to both, except as provided in Subsection PP of this section and in Section 54 of that act;

PP. make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted in the Eastern Sandoval County Arroyo Flood Control Act, or in the performance of the authority's covenants or duties, or in order to secure the payment of its securities; provided, no encumbrance, mortgage or other pledge of property, excluding any money, of the authority is created thereby and provided no property, excluding money, of the authority is liable to be forfeited or taken in payment of such securities;

QQ. have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in the Eastern Sandoval County Arroyo Flood Control Act, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of that act; and

RR. exercise all or any part or combination of the powers granted in the Eastern Sandoval County Arroyo Flood Control Act.

## **Chapter 99 Section 23 Laws 2007**

Section 23. LEVY AND COLLECTION OF TAXES.--To levy and collect taxes, the board shall determine in each year the amount of money necessary to be raised by taxation, taking into consideration other sources of revenue of the authority, and shall fix a rate of levy, without limitation as to rate or amount, except for the limitation in Subsection I of Section 22 of the Eastern Sandoval County Arroyo Flood Control Act

and for any constitutional limitation, that, when levied upon the net taxable value, as that term is defined in the Property Tax Code, of all property subject to property taxation within the authority, and together with other revenues, will raise the amount required by the authority annually to supply funds for paying expenses of organization and the costs of acquiring, improving, equipping, operating and maintaining any project or facility of the authority, and promptly to pay in full, when due, all interest on and principal of bonds and other securities of the authority, and in the event of accruing defaults or deficiencies, an additional levy may be made as provided in Section 24 of the Eastern Sandoval County Arroyo Flood Control Act.

## **Chapter 99 Section 24 Laws 2007**

Section 24. LEVIES TO COVER DEFICIENCIES.--The board, in certifying annual levies, shall take into account the maturing indebtedness for the ensuing year as provided in its contracts, maturing securities and interest on securities, and deficiencies and defaults of prior years and shall make ample provision for the payment thereof. In case the money produced from such levies, together with other revenues of the authority, is not sufficient punctually to pay the annual installments of its contracts or securities, and interest thereon, and to pay defaults and deficiencies, the board shall make such additional levies of taxes as may be necessary for such purposes, and notwithstanding any limitations, except the limitation in Subsection I of Section 22 of the Eastern Sandoval County Arroyo Flood Control Act, and any constitutional limitation, such taxes shall be made and continue to be levied until the indebtedness of the authority is fully paid.

## **Chapter 99 Section 25 Laws 2007**

Section 25. SINKING FUND.--Whenever any indebtedness has been incurred by the authority, it is lawful for the board to levy taxes and to collect revenue for the purpose of creating a reserve fund in such amount as the board may determine, which may be used to meet the obligations of the authority, for maintenance and operating charges and depreciation, and to provide improvements for the authority.

## **Chapter 99 Section 26 Laws 2007**

Section 26. MANNER OF LEVYING AND COLLECTING TAXES.--It is the duty of the body having authority to levy taxes within each county to levy the taxes provided in Subsection I of Section 22 of the Eastern Sandoval County Arroyo Flood Control Act, and elsewhere in that act. It is the duty of all officials charged with collecting taxes to collect such taxes at the time and in the form and manner and with like interest and penalties as other general (ad valorem) taxes are collected, and when collected, to pay the same to the authority. The payment of such collection shall be made monthly to the treasurer of the authority and paid into the depository thereof to the credit of the authority. All general (ad valorem) taxes levied under the Eastern Sandoval County Arroyo Flood Control Act, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same constitute until paid a perpetual

lien on and against the property taxed, and such lien is on a parity with the tax lien of other general (ad valorem) taxes.

### **Chapter 99 Section 27 Laws 2007**

Section 27. DELINQUENT TAXES.--If the general (ad valorem) taxes levied are not paid, then delinquent real property shall be sold at the regular tax sale for the payment of such taxes, interest and penalties, in the manner provided by the statutes of the state for selling real property for the nonpayment of general taxes. If there are no bids at the tax sale for the property so offered, the property shall be struck off to the county, and the county shall account to the authority in the same manner as provided by law for accounting for school, town and city taxes. Delinquent personal property shall be distrained and sold as provided by law.

### **Chapter 99 Section 28 Laws 2007**

Section 28. ELECTIONS.--Each biennial election of directors shall be conducted at the time of the general election under the direction of the Sandoval county clerk and in accordance with the election laws of New Mexico. Any other election of the authority, including an election to seek approval for the issuance of bonds, shall be conducted at any time approved by the board in accordance with the election laws of New Mexico. Elections for the issuance of bonds may be by mail-in ballot pursuant to the procedures set forth in the Mail Ballot Election Act.

### **Chapter 99 Section 29 Laws 2007**

Section 29. ELECTION RESOLUTION.--The board shall call any election by resolution adopted at least fifty days prior to the election. The resolution shall recite the objects and purposes of the election and the date upon which the election shall be held.

### **Chapter 99 Section 30 Laws 2007**

Section 30. CONDUCT OF ELECTION.--An election held pursuant to the Eastern Sandoval County Arroyo Flood Control Act shall be conducted in the manner provided by the laws of the state for the conduct of general elections.

### **Chapter 99 Section 31 Laws 2007**

Section 31. NOTICE OF ELECTION.--Notice of an election pursuant to Section 30 of the Eastern Sandoval County Arroyo Flood Control Act shall be given by publication. No other notice of an election held under the Eastern Sandoval County Arroyo Flood Control Act need be given unless otherwise provided by the board.

### **Chapter 99 Section 32 Laws 2007**

Section 32. POLLING PLACES.--All polling places shall be within the area included within the authority. The authority may consolidate the precincts for any election of the authority not conducted at the time of the general election. If precincts are consolidated, the notice of the election shall state which precincts have been consolidated and the designation of the polling place.

### **Chapter 99 Section 33 Laws 2007**

Section 33. ELECTION SUPPLIES.--The secretary shall provide to the Sandoval county clerk such supplies and assistance as necessary to conduct elections authorized by the Eastern Sandoval County Arroyo Flood Control Act.

### **Chapter 99 Section 34 Laws 2007**

Section 34. ELECTION RETURNS.--For authority elections held at the time of the general election, the regular general election precinct board shall certify the results of the authority election to the county canvassing board. The county canvassing board shall certify directly to the secretary that portion of the returns pertaining to the authority election. For authority elections held at a different time than the general election, the authority shall appoint an authority precinct board at the authority's expense for each polling place. The authority precinct board shall conduct the election as provided in the Election Code. The separate authority precinct board shall certify the results of the election in that precinct to the secretary within twelve hours after the close of the polls. The secretary shall canvass the results of the authority election as certified by each of the separate authority precinct boards and shall declare the results of the election at any regular or special meeting held not less than five days following the date of the election. Except as otherwise provided, any proposal submitted at any election held pursuant to the Eastern Sandoval County Arroyo Flood Control Act shall not carry unless the proposal has been approved by a majority of the qualified electors of the district voting on the proposal.

### **Chapter 99 Section 35 Laws 2007**

Section 35. DISSOLUTION OF AUTHORITY.--If a petition is received pursuant to Section 7 of the Eastern Sandoval County Arroyo Flood Control Act denying the board the power to acquire a flood control system or if the first proposal for the issuance of bonds fails to receive a favorable vote by a majority of the qualified electors voting on the proposal, the board shall proceed to dissolve the authority.

### **Chapter 99 Section 36 Laws 2007**

Section 36. FILING OF DISSOLUTION RESOLUTION.--Within thirty days after the effective date of any resolution dissolving the authority, the secretary shall file a copy of the resolution in the office of the county clerk and shall file an additional copy of the resolution in the office of the secretary of state, which filings shall be without fee and

be otherwise in the same manner as articles of incorporation are required to be filed under the laws of the state.

## **Chapter 99 Section 37 Laws 2007**

Section 37. DISPOSITION OF PROPERTY, FUNDS AND TAXES OF AUTHORITY.--All property and all funds remaining in the treasury of the authority so dissolved shall be surrendered and transferred to the county in which the authority is located and shall become a part of the general fund of the county.

## **Chapter 99 Section 38 Laws 2007**

Section 38. POWERS OF PUBLIC BODIES.--The governing body of any municipality, federally authorized Indian nation, pueblo or tribe or other public body, upon its behalf and in its name, for the purpose of aiding and cooperating in the determination of any authority boundary or any project authorized in the Eastern Sandoval County Arroyo Flood Control Act, upon the terms and with or without consideration and with or without an election, as the governing body determines, may exercise the following powers:

A. sell, lease, loan, donate, grant, convey, assign, transfer and otherwise dispose to the authority, sewer facilities or any other property, or any interest therein, appertaining to a flood control system;

B. make available for temporary use or otherwise dispose to the authority of any machinery, equipment, facilities and other property, and any agents, employees, persons with professional training, and any other persons, to effect the purposes of the Eastern Sandoval County Arroyo Flood Control Act. Any such property and persons owned or in the employ of any public body while engaged in performing for the authority any service, activity or undertaking authorized in the Eastern Sandoval County Arroyo Flood Control Act, pursuant to contract or otherwise, shall have and retain all of the powers, privileges, immunities, rights and duties of and shall be deemed to be engaged in the service and employment of such public body, notwithstanding such service, activity or undertaking is being performed in or for the authority;

C. enter into any agreement or joint agreement between or among the federal government, the authority and any other public body, or any combination thereof, extending over any period not exceeding fifty years, which is mutually agreed thereby, notwithstanding any law to the contrary, respecting action or proceedings appertaining to any power granted in the Eastern Sandoval County Arroyo Flood Control Act, and the use or joint use of any facilities, project or other property authorized in that act;

D. sell, lease, loan, donate, grant, convey, assign, transfer or pay over to the authority any facilities or any project authorized in the Eastern Sandoval County Arroyo Flood Control Act, or any part thereof, or any interest in real or personal property, or any funds available for acquisition, improvement or equipment purposes, including the

proceeds of any securities previously or hereafter issued for acquisition, improvement or equipment purposes that may be used by the authority in the acquisition, improvement, equipment, maintenance or operation of any facilities or project authorized in that act;

E. transfer, grant, convey or assign and set over to the authority any contracts that may have been awarded by the public body for the acquisition, improvement or equipment of any project not begun or if begun, not completed;

F. budget and appropriate, and each municipality or other public body is hereby required and directed to budget and appropriate, from time to time, general (ad valorem) tax proceeds, and other revenues legally available therefor to pay all obligations arising from the exercise of any powers granted in the Eastern Sandoval County Arroyo Flood Control Act as such obligations shall accrue and become due;

G. provide for an agency, by any agreement authorized in the Eastern Sandoval County Arroyo Flood Control Act, to administer or execute that or any collateral agreement, which agency may be one of the parties to the agreement, or a commission or board constituted pursuant to the agreement;

H. provide that any such agency shall possess the common power specified in the agreement, and may exercise it in the manner or according to the method provided in the agreement. Such power is subject to the restrictions upon the manner of exercising the power of any one of the contracting parties, which party shall be designated by the agreement; and

I. continue any agreement authorized in the Eastern Sandoval County Arroyo Flood Control Act for a definite term not exceeding fifty years, or until rescinded or terminated, which agreement may provide for the method by which it may be rescinded or terminated by any party.

## **Chapter 99 Section 39 Laws 2007**

Section 39. EFFECTS OF EXTRATERRITORIAL FUNCTIONS.--All of the powers, privileges, immunities and rights, exemptions from laws, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits that apply to the activity of officers, agents or employees of the authority or any such public body when performing their respective functions within the territorial limits of the respective public agencies apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially under the Eastern Sandoval County Arroyo Flood Control Act.

## **Chapter 99 Section 40 Laws 2007**

Section 40. FORMS OF BORROWING.--Upon the conditions and under the circumstances set forth in the Eastern Sandoval County Arroyo Flood Control Act, the authority, to carry out the purposes of that act, from time to time may borrow money to

defray the cost of any project, or any part thereof, as the board may determine and issue the following securities to evidence such borrowing:

- A. notes;
- B. warrants;
- C. bonds;
- D. temporary bonds; and
- E. interim debentures.

### **Chapter 99 Section 41 Laws 2007**

Section 41. ISSUANCE OF NOTES.--The authority is authorized to borrow money without an election in anticipation of taxes or other revenues, or both, and to issue notes to evidence the amount so borrowed.

### **Chapter 99 Section 42 Laws 2007**

Section 42. ISSUANCE OF WARRANTS.--The authority is authorized to defray the cost of any services, supplies, equipment or other materials furnished to or for the benefit of the authority by the issuance of warrants to evidence the amount due therefor, without an election, in anticipation of taxes or other revenues, or both.

### **Chapter 99 Section 43 Laws 2007**

Section 43. MATURITIES OF NOTES AND WARRANTS.--Notes and warrants may mature at such time not exceeding one year from the respective dates of their issuance as the board may determine. They shall not be extended or funded except by the issuance of bonds or interim debentures in compliance with Section 44 or 46 of the Eastern Sandoval County Arroyo Flood Control Act.

### **Chapter 99 Section 44 Laws 2007**

Section 44. ISSUANCE OF BONDS AND INCURRENCE OF DEBT.--The authority is authorized to borrow money in anticipation of taxes or other revenues, or both, and to issue bonds to evidence the amount so borrowed. No bonded indebtedness or any other indebtedness not payable in full within one year, except for interim debentures as provided in Sections 46 and 89 through 91 of the Eastern Sandoval County Arroyo Flood Control Act, shall be created by the authority without first submitting a proposition of issuing such bonds to the qualified electors of the authority and being approved by a majority of such electors voting thereon at an election held for that purpose in accordance with Sections 28 through 34 of that act and all laws

amendatory thereof and supplemental thereto. Bonds so authorized may be issued in one series or more and may mature at such time or times not exceeding forty years from their issuance as the board may determine. The total of all outstanding indebtedness at any one time shall not exceed fifty million dollars (\$50,000,000) without prior approval of the state legislature.

### **Chapter 99 Section 45 Laws 2007**

Section 45. ISSUANCE OF TEMPORARY BONDS.--The authority is authorized to issue temporary bonds, pending preparation of definitive bond or bonds and exchangeable for the definitive bond or bonds when prepared, as the board may determine. Each temporary bond shall set forth substantially the same conditions, terms and provisions as the definitive bond for which it is exchanged. Each holder of any such temporary security shall have all the rights and remedies that the holder would have as a holder of the definitive bond or bonds.

### **Chapter 99 Section 46 Laws 2007**

Section 46. ISSUANCE OF INTERIM DEBENTURES.--The authority is authorized to borrow money and to issue interim debentures evidencing "construction" or short-term loans for the acquisition or improvement and equipment of the flood control system or any project in supplementation of long-term financing and the issuance of bonds as provided in Sections 89 through 91 of the Eastern Sandoval County Arroyo Flood Control Act.

### **Chapter 99 Section 47 Laws 2007**

Section 47. PAYMENT OF SECURITIES.--All securities issued by the authority shall be authorized by resolution. The authority may pledge its full faith and credit for the payment of any securities authorized in the Eastern Sandoval County Arroyo Flood Control Act, the interest thereon, any prior redemption premium or premiums and any charges appertaining thereto. Securities may constitute the direct and general obligations of the authority. Their payment may be secured by a specific pledge of tax proceeds and other revenues of the authority as the board may determine.

### **Chapter 99 Section 48 Laws 2007**

Section 48. ADDITIONALLY SECURED SECURITIES.--The board, in connection with such additionally secured securities, in the resolution authorizing their issuance or other instrument appertaining thereto, may pledge all or a portion of such revenues, subject to any prior pledges, as additional security for such payment of such securities, and at its option may deposit such revenues in a fund created to pay the securities or created to secure additionally their payment.

### **Chapter 99 Section 49 Laws 2007**

Section 49. PLEDGE OF REVENUES.--Any such revenues pledged directly or as additional security for the payment of securities of any one issue or series, which revenues are not exclusively pledged therefor, may subsequently be pledged directly or as additional security for the payment of the securities of one or more issue or series subsequently authorized.

### **Chapter 99 Section 50 Laws 2007**

Section 50. RANKING AMONG DIFFERENT ISSUES.--All securities of the same issue or series shall, subject to the prior and superior rights of outstanding securities, claims and other obligations, have a prior, paramount and superior lien on the revenues pledged for the payment of the securities over and ahead of any lien thereagainst subsequently incurred of any other securities; provided, however, the resolution authorizing, or other instrument appertaining to, the issuance of any securities may provide for the subsequent authorization of bonds or other securities the lien for the payment of which on such revenues is on a parity with the lien thereon of the subject securities upon such conditions and subject to such limitations as the resolution or other instrument may provide.

### **Chapter 99 Section 51 Laws 2007**

Section 51. RANKING AMONG SECURITIES OF SAME ISSUE.--All securities of the same issue or series shall be equally and ratably secured without priority by reason of number, date of maturity, date of securities, of sale, of execution or of delivery, by a lien on such revenues in accordance with the provisions of the Eastern Sandoval County Arroyo Flood Control Act and the resolution authorizing, or other instrument appertaining to, such securities, except to the extent such resolution or other instrument otherwise expressly provides.

### **Chapter 99 Section 52 Laws 2007**

Section 52. PAYMENT RECITAL IN SECURITIES.--Each security issued under the Eastern Sandoval County Arroyo Flood Control Act shall recite in substance that the security and the interest on that security are payable solely from the revenues or other money pledged to the payment of those revenues. Securities specifically pledging the full faith and credit of the authority for their payment shall so state.

### **Chapter 99 Section 53 Laws 2007**

Section 53. INCONTESTABLE RECITAL IN SECURITIES.--Any resolution authorizing, or other instrument appertaining to, any securities under the Eastern Sandoval County Arroyo Flood Control Act may provide that each security authorized by such a resolution shall recite that it is issued under authority of that act. Such recital shall conclusively impart full compliance with all of the provisions of the Eastern Sandoval County Arroyo Flood Control Act, and all securities issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

## **Chapter 99 Section 54 Laws 2007**

Section 54. LIMITATIONS UPON PAYMENT OF SECURITIES.--The payment of securities shall not be secured by an encumbrance, mortgage or other pledge of property of the authority, except for revenues, income, tax proceeds and other money pledged for the payment of securities. No property of the authority, subject to such exception, shall be liable to be forfeited or taken in payment of the securities.

## **Chapter 99 Section 55 Laws 2007**

Section 55. LIMITATIONS UPON INCURRING ANY DEBT.--Nothing in the Eastern Sandoval County Arroyo Flood Control Act shall be construed as creating or authorizing the creation of an indebtedness on the part of any municipality or other public body included in the authority or elsewhere located.

## **Chapter 99 Section 56 Laws 2007**

Section 56. SECURITY DETAILS.--Any securities authorized to be issued in the Eastern Sandoval County Arroyo Flood Control Act shall bear the date or dates, shall be in the denomination or denominations, shall mature at the time or times but in no event exceeding forty years from their date or any shorter limitation provided in that act, shall bear interest that may be evidenced by one or two sets of coupons, payable annually or semiannually, except that the first coupon or coupons, if any, appertaining to any security may represent interest for any period not in excess of one year, as may be prescribed by resolution or other instrument; and the securities and any coupons shall be payable in the medium of payment at any banking institution or other place or places within or without the state, including but not limited to the office of the treasurer of the county in which the authority is located wholly or in part, as determined by the board, and the securities at the option of the board may be in one or more series, may be made subject to prior redemption in advance of maturity in the order or by lot or otherwise at the time or times without or with the payment of the premium or premiums not exceeding six percent of the principal amount of each security so redeemed, as determined by the board.

## **Chapter 99 Section 57 Laws 2007**

Section 57. CAPITALIZATION OF COSTS.--Any resolution authorizing the issuance of securities or other instrument appertaining thereto may capitalize interest on any securities during any period of construction or other acquisition estimated by the board and one year thereafter and any other cost of any project by providing for the payment of the amount capitalized from the proceeds of the securities.

## **Chapter 99 Section 58 Laws 2007**

Section 58. OTHER SECURITY DETAILS.--Securities may be issued in such manner, in such form, with such recitals, terms, covenants and conditions and with such other details as may be provided by the board in the resolution authorizing the securities, or other instrument appertaining thereto, except as otherwise provided in the Eastern Sandoval County Arroyo Flood Control Act.

### **Chapter 99 Section 59 Laws 2007**

Section 59. REISSUANCE OF SECURITIES.--Any resolution authorizing the issuance of securities or any other instrument appertaining thereto may provide for their reissuance in other denominations in negotiable or nonnegotiable form and otherwise in such manner and form as the board may determine.

### **Chapter 99 Section 60 Laws 2007**

Section 60. NEGOTIABILITY.--Subject to the payment provisions specifically provided in the Eastern Sandoval County Arroyo Flood Control Act, the notes, warrants, bonds, any interest coupons thereto attached, temporary bonds and interim debentures shall be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code, except as the board may otherwise provide. Each holder of such security, or of any coupon appertaining thereto, by accepting such security or coupon shall be conclusively deemed to have agreed that such security or coupon, except as otherwise provided, is and shall be fully negotiable within the meaning and for all purposes of the Uniform Commercial Code.

### **Chapter 99 Section 61 Laws 2007**

Section 61. SINGLE BONDS.--Notwithstanding any other provision of law, the board in any proceedings authorizing securities under the Eastern Sandoval County Arroyo Flood Control Act:

A. may provide for the initial issuance of one or more securities, in this section called "bond", aggregating the amount of the entire issue or a designated portion thereof;

B. may make such provision for installment payments of the principal amount of any such bond as it may consider desirable;

C. may provide for the making of any such bond payable to bearer or otherwise, registrable as to principal or as to both principal and interest, and where interest accruing thereon is not represented by interest coupons, for the endorsing of payments of interest on such bonds; and

D. may further make provision in any such proceedings for the manner and circumstances in and under which any such bond may in the future, at the request of the holder thereof, be converted into securities of smaller denominations, which

securities of smaller denominations may in turn be either coupon bonds or bonds registrable as to principal or principal and interest or both.

### **Chapter 99 Section 62 Laws 2007**

Section 62. LOST OR DESTROYED SECURITIES.--If lost or completely destroyed, any security may be reissued in the form and tenor of the lost or destroyed security upon the owner furnishing to the satisfaction of the board:

- A. proof of ownership;
- B. proof of loss or destruction;
- C. a surety bond in twice the face amount of the security and any coupons; and
- D. payment of the cost of preparing and issuing the new security.

### **Chapter 99 Section 63 Laws 2007**

Section 63. EXECUTION OF SECURITIES.--Any security shall be executed in the name of and on behalf of the authority and signed by the chair, with the seal of the authority affixed thereto and attested by the secretary, except for securities issued in book entry or similar form without the delivery of physical securities.

### **Chapter 99 Section 64 Laws 2007**

Section 64. INTEREST COUPONS.--Except for any bonds that are registrable for payment of interest, interest coupons payable to bearer and appertaining to the bonds shall be issued and shall bear the original or facsimile signature of the chair.

### **Chapter 99 Section 65 Laws 2007**

Section 65. FACSIMILE SIGNATURES.--Any of the officers, after filing with the secretary of state the officer's manual signature certified by the officer under oath, may execute or cause to be executed with a facsimile signature in lieu of the officer's manual signature any security authorized in the Eastern Sandoval County Arroyo Flood Control Act; provided that such a filing is not a condition of execution with a facsimile signature of any interest coupon, and provided that at least one signature required or permitted to be placed on each such security, excluding any interest coupon, shall be manually subscribed. An officer's facsimile signature has the same legal effect as the officer's manual signature.

### **Chapter 99 Section 66 Laws 2007**

Section 66. FACSIMILE SEAL.--The secretary may cause the seal of the authority to be printed, engraved, stamped or otherwise placed in facsimile on any security. The facsimile seal has the same legal effect as the impression of the seal.

### **Chapter 99 Section 67 Laws 2007**

Section 67. SIGNATURES OF PREDECESSORS IN OFFICE.--The securities and any coupons bearing the signatures of the officers in office at the time of the signing shall be the valid and binding obligations of the authority, notwithstanding that before the delivery thereof and payment therefor, any or all of the persons whose signatures appear on those securities or coupons shall have ceased to fill their respective offices.

### **Chapter 99 Section 68 Laws 2007**

Section 68. FACSIMILE SIGNATURES OF PREDECESSORS.--Any officer authorized or permitted in the Eastern Sandoval County Arroyo Flood Control Act to sign any security or interest coupon, at the time of its execution and of the execution of a signature certificate, may adopt as and for the officer's own facsimile signature the facsimile signature of the officer's predecessor in office in the event that such facsimile signature appears upon the security or coupons appertaining thereto, or upon both the security and such coupons.

### **Chapter 99 Section 69 Laws 2007**

Section 69. REPURCHASE OF SECURITIES.--The securities may be repurchased by the authority out of any funds available for such purpose from the project to which they pertain at a price of not more than the principal amount thereof and accrued interest, plus the amount of the premium, if any, that might, on the next redemption date of such securities, be paid to the holders thereof if such securities should be called for redemption on such date pursuant to their terms, and all securities so repurchased shall be canceled.

### **Chapter 99 Section 70 Laws 2007**

Section 70. CUSTOMARY PROVISIONS.--The resolution authorizing the securities or other instrument appertaining thereto may contain any agreement or provision customarily contained in instruments securing securities, including without limiting the generality of the foregoing, covenants designated in Section 76 of the Eastern Sandoval County Arroyo Flood Control Act.

### **Chapter 99 Section 71 Laws 2007**

Section 71. SALE OF SECURITIES.--Any securities authorized in the Eastern Sandoval County Arroyo Flood Control Act, except for warrants not issued for cash and except for temporary bonds issued pending preparation of definitive bond or bonds,

shall be sold at public or private sale at, above or below par at a net effective interest rate not exceeding the maximum net effective interest rate permitted by the Public Securities Act, as amended and supplemented by the Eastern Sandoval County Arroyo Flood Control Act.

### **Chapter 99 Section 72 Laws 2007**

Section 72. SALE DISCOUNT OR COMMISSION PROHIBITED.--No discount, except as provided by the Eastern Sandoval County Arroyo Flood Control Act, or commission shall be allowed or paid on or for any security sale to any purchaser or bidder, directly or indirectly, but nothing contained in that act shall be construed as prohibiting the board from employing legal, fiscal, engineering and other expert services in connection with any project or facilities authorized in that act and with the authorization, issuance and sale of securities.

### **Chapter 99 Section 73 Laws 2007**

Section 73. APPLICATION OF PROCEEDS.--All money received from the issuance of any securities authorized in the Eastern Sandoval County Arroyo Flood Control Act shall be used solely for the purpose for which issued and the cost of any project thereby delineated. Any accrued interest and any premium shall be applied to the payment of the interest on, or the principal of, the securities, or both interest and principal, or shall be deposited in a reserve therefor, as the board may determine.

### **Chapter 99 Section 74 Laws 2007**

Section 74. USE OF UNEXPENDED PROCEEDS.--Any unexpended balance of such security proceeds remaining after the completion of the acquisition or improvement and equipment of the project or the completion of the purpose for which such securities were issued shall be paid immediately into the fund created for the payment of the principal of such securities and shall be used therefor, subject to the provisions as to the times and methods for their payment as stated in the securities and the proceedings authorizing or otherwise appertaining to their issuance, or so paid into a reserve therefor.

### **Chapter 99 Section 75 Laws 2007**

Section 75. VALIDITY UNAFFECTED BY USE OF PROCEEDS.--The validity of such securities shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition or improvement and equipment of the project or the proper completion of any project for which the securities are issued. The purchaser or purchasers of the securities shall in no manner be responsible for the application of the proceeds of the securities by the authority or any of its officers, agents and employees.

## **Chapter 99 Section 76 Laws 2007**

Section 76. COVENANTS IN SECURITY PROCEEDINGS.--Any resolution or trust indenture authorizing the issuance of securities or any other instrument appertaining thereto may contain covenants and other provisions, notwithstanding such covenants and provisions may limit the exercise of powers conferred by the Eastern Sandoval County Arroyo Flood Control Act, in order to secure the payment of such securities in agreement with the holders and owners of such securities, as the board may determine, including without limiting the generality of the foregoing, all such acts and things as may be necessary or convenient or desirable in order to secure the authority's securities, or in the discretion of the board tend to make the securities more marketable, notwithstanding that such covenant, act or thing may not be enumerated in that act, it being the intention of that act to give the authority power to do all things in the issuance of securities and for their security except as specifically limited in that act.

## **Chapter 99 Section 77 Laws 2007**

Section 77. REMEDIES OF SECURITY HOLDERS.--Subject to any contractual limitations binding upon the holders of any issue or series of securities, or trustee therefor, including the restriction of the exercise of any remedy to a specified proportion, percentage or number of such holders, and subject to any prior or superior rights of others, any holder of securities, or trustee therefor, shall have the right and power for the equal benefit and protection of all holders of securities similarly situated:

A. by mandamus or other suit, action or proceeding at law or in equity to enforce the holder's rights against the authority and the board and any of its officers, agents and employees, and to require and compel the authority or the board or any such officers, agents or employees to perform and carry out its and their duties, obligations or other commitments under the Eastern Sandoval County Arroyo Flood Control Act and its and their covenants and agreements with the holder of any security;

B. by action or suit in equity to require the authority and the board to account as if they were the trustee of an express trust;

C. by action or suit in equity to have appointed a receiver, which receiver may enter and take possession of any system or project or services revenues from which are pledged for the payment of the securities, prescribe sufficient fees derived from the operation thereof, and collect, receive and apply all revenues or other money pledged for the payment of the securities in the same manner as the authority itself might do in accordance with the obligations of the authority; and

D. by action or suit in equity to enjoin any acts or things that may be unlawful or in violation of the rights of the holder of any security and to bring suit thereupon.

## **Chapter 99 Section 78 Laws 2007**

Section 78. LIMITATIONS UPON LIABILITIES.--Neither the directors nor any person executing securities issued under the Eastern Sandoval County Arroyo Flood Control Act shall be liable personally on the securities by reason of the issuance thereof. Securities issued pursuant to the Eastern Sandoval County Arroyo Flood Control Act shall not be in any way a debt or liability of the state or of any municipality or other public body and shall not create or constitute any indebtedness, liability or obligation of the state or of any such municipality or other public body, either legal, moral or otherwise, and nothing contained in that act shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the state or any municipality or other public body, except the authority and except as otherwise expressly stated or necessarily implied in that act.

### **Chapter 99 Section 79 Laws 2007**

Section 79. CANCELLATION OF PAID SECURITIES.--Whenever the treasurer shall redeem and pay any of the securities issued under the provisions of the Eastern Sandoval County Arroyo Flood Control Act, the treasurer shall cancel the same by writing across the face thereof or stamping thereon the word "paid", together with the date of its payment, sign the treasurer's name thereto and transmit the same to the secretary, taking the secretary's receipt therefor, which receipt shall be filed in the records of the authority. The secretary shall credit the treasurer on the secretary's books for the amount so paid.

### **Chapter 99 Section 80 Laws 2007**

Section 80. INTEREST AFTER MATURITY.--No interest shall accrue on any security in the Eastern Sandoval County Arroyo Flood Control Act authorized after it becomes due and payable; provided that funds for the payment of the principal of and the interest on the security and any prior redemption premium due are available to the paying agent for such payment without default.

### **Chapter 99 Section 81 Laws 2007**

Section 81. REFUNDING BONDS.--Any bonds issued under the Eastern Sandoval County Arroyo Flood Control Act may be refunded, without an election, but subject to provisions concerning their payment and to any other contractual limitations in the proceedings authorizing their issuance or otherwise appertaining thereto, pursuant to a resolution or resolutions to be adopted by the board in the manner provided in that act for the issuance of other securities, to refund, pay or discharge all or any part of the authority's outstanding bonds, heretofore or hereafter issued, including any interest thereon in arrears or about to become due, or for the purpose of reducing interest costs or effecting other economies or of modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional bonds or any project, or any combination thereof.

### **Chapter 99 Section 82 Laws 2007**

Section 82. METHOD OF ISSUANCE.--Any bonds issued for refunding purposes may either be delivered in exchange for the outstanding bonds authorized to be refunded or may be sold as provided in the Eastern Sandoval County Arroyo Flood Control Act for the sale of other bonds.

### **Chapter 99 Section 83 Laws 2007**

Section 83. LIMITATIONS UPON ISSUANCE.--No bonds may be refunded under the Eastern Sandoval County Arroyo Flood Control Act unless the holders of the bonds voluntarily surrender them for exchange or payment or unless they either mature or are callable for prior redemption under their terms within ten years from the date of issuance of the refunding bonds. Provision shall be made for paying the bonds within that period of time. No maturity of any bonds refunded may be extended over fifteen years nor may any interest on the bonds be increased to any coupon rate exceeding the maximum net effective interest rate permitted by the Public Securities Act. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds if the aggregate principal and interest costs of the refunding bonds do not exceed such unaccrued costs of the bonds refunded. The principal amount of the refunding bonds may also be less than or the same as the principal amount of the bonds refunded so long as provision is duly and sufficiently made for their payment.

### **Chapter 99 Section 84 Laws 2007**

Section 84. USE OF REFUNDING BOND PROCEEDS.--The proceeds of refunding bonds shall either be immediately applied to the retirement of the bonds to be refunded or be placed in escrow to be applied to the payment of the bonds upon their presentation; provided, however, any accrued interest and any premium appertaining to a sale of refunding bonds may be applied to the payment of the interest or the principal or both interest and principal or may be deposited in a reserve therefor as the board may determine. The escrow shall not necessarily be limited to refunding bond proceeds but may include other money made available for such purpose. Any escrowed proceeds pending such use may be invested or reinvested in federal securities. Escrowed proceeds and investments, together with any interest to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due and any charges of the escrow agent payable therefrom to pay the bonds refunded as they become due at their respective maturities or due at designated prior redemption date or dates upon which the board shall exercise a prior redemption option. Upon establishment of an escrow in accordance with this section, the refunded bonds payable therefrom no longer constitute outstanding indebtedness of the authority.

### **Chapter 99 Section 85 Laws 2007**

Section 85. PAYMENT OF REFUNDING BONDS.--Refunding revenue bonds may be made payable from any revenues derived from the operation of the flood control system or any project, notwithstanding the pledge of such revenues for the payment of

the outstanding bonds issued by the authority that are to be refunded is thereby modified. Any refunding revenue bonds shall not be made payable from taxes unless the bonds thereby refunded are payable from taxes.

### **Chapter 99 Section 86 Laws 2007**

Section 86. COMBINATION OF REFUNDING AND OTHER BONDS.--Bonds for refunding and bonds for any other purpose or purposes authorized in the Eastern Sandoval County Arroyo Flood Control Act may be issued separately or issued in combination in one series or more.

### **Chapter 99 Section 87 Laws 2007**

Section 87. SUPPLEMENTAL PROVISIONS.--Except as specifically provided or necessarily implied in the Eastern Sandoval County Arroyo Flood Control Act, the relevant provisions of that act pertaining to bonds generally shall be equally applicable in the authorization and issuance of refunding bonds, including their terms and security, the bond resolution, trust indenture, taxes and service charges and other aspects of the bonds.

### **Chapter 99 Section 88 Laws 2007**

Section 88. BOARD'S DETERMINATION FINAL.--The determination of the board that the limitations imposed upon the issuance of refunding bonds under the Eastern Sandoval County Arroyo Flood Control Act have been met shall be conclusive in the absence of fraud or arbitrary and gross abuse of discretion.

### **Chapter 99 Section 89 Laws 2007**

Section 89. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE OF BONDS AS COLLATERAL SECURITY.--Notwithstanding any limitation or other provision in the Eastern Sandoval County Arroyo Flood Control Act, whenever a majority of the qualified electors of the authority voting on a proposal to issue bonds has authorized the authority to issue bonds for any purpose authorized in that act, the authority is authorized to borrow money without any other election in anticipation of taxes, the proceeds of the bonds or any other revenues of the authority, or any combination thereof, and to issue interim debentures to evidence the amount so borrowed. Interim debentures may mature at such time not exceeding a period of time equal to the estimated time needed to effect the purpose for which the bonds are so authorized to be issued, plus two years, as the board may determine. Except as otherwise provided in this section and in Sections 90 and 91 of the Eastern Sandoval County Arroyo Flood Control Act, interim debentures shall be issued as provided in that act for securities in Sections 47 through 80 of the Eastern Sandoval County Arroyo Flood Control Act. Taxes, other revenues of the authority, including without limiting the generality of the foregoing proceeds of bonds to be thereafter issued or reissued or bonds issued for the purpose of securing the payment of interim debentures may be pledged for the purpose

of securing the payment of the interim debentures. Any bonds pledged as collateral security for the payment of any interim debentures shall mature at such time as the board may determine, but in no event exceeding forty years from the date of either any of such bonds or any of such interim debentures, whichever date is earlier. Any such bonds pledged as collateral security shall not be issued in an aggregate principal amount exceeding the aggregate principal amount of the interim debenture secured by a pledge of such bonds nor shall they bear interest at any time which with any interest accruing at the same time on the interim debenture so secured exceeds six percent per year.

### **Chapter 99 Section 90 Laws 2007**

Section 90. INTERIM DEBENTURES NOT TO BE EXTENDED.--No interim debenture issued pursuant to the provisions of Section 89 of the Eastern Sandoval County Arroyo Flood Control Act shall be extended or funded except by the issuance or reissuance of a bond or bonds in compliance with Section 91 of that act.

### **Chapter 99 Section 91 Laws 2007**

Section 91. FUNDING.--For the purpose of funding any interim debenture or interim debentures, any bond or bonds pledged as collateral security to secure the payment of such interim debenture or interim debentures may be reissued without an election, and any bonds not previously issued but authorized to be issued at an election for a purpose the same as or encompassing the purpose for which the interim debentures were issued may be issued for such a funding. Any such bonds shall mature at such time as the board may determine, but in no event exceeding forty years from the date of either any of the interim debentures so funded or any of the bonds so pledged as collateral security, whichever date is earlier. Bonds for funding, including but not necessarily limited to any such reissued bonds, and bonds for any other purpose or purposes authorized in the Eastern Sandoval County Arroyo Flood Control Act may be issued separately or issued in combination in one series or more. Except as otherwise provided in Sections 89 and 90 of the Eastern Sandoval County Arroyo Flood Control Act and in this section, any such funding bonds shall be issued as is provided for refunding bonds in Sections 81, 82, 84, 85, 87 and 88 of that act and provided for securities in Sections 47 through 80 of that act.

### **Chapter 99 Section 92 Laws 2007**

Section 92. PUBLICATION OF RESOLUTION OR PROCEEDINGS.--In its discretion, the board may provide for the publication once in full of either any resolution or other proceedings adopted by the board ordering the issuance of any securities or, in the alternative, of notice thereof, which resolution, other proceedings or notice so published shall state the fact and date of such adoption and the place where such resolution or other proceedings have been filed for public inspection and also the date of the first publication of such resolution, other proceedings or notice and also state that any action or proceeding of any kind or nature in any court questioning the validity of the

creation and establishment of the authority, or the validity or proper authorization of securities provided for by the resolution or other proceedings, or the validity of any covenants, agreements or contracts provided for by the resolution or other proceedings, shall be commenced within sixty days after the first publication of such resolution, other proceedings or notice.

## **Chapter 99 Section 93 Laws 2007**

Section 93. FAILURE TO CONTEST LEGALITY CONSTITUTES BAR.--If no such action or proceedings are commenced or instituted within sixty days after the first publication of such resolution, other proceedings or notice, then all residents and taxpayers and owners of property in the authority and all public bodies and all other persons whatsoever shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court or from pleading any defense to any action or proceedings questioning the validity of the creation and establishment of the authority, the validity or proper authorization of such securities or the validity of any such covenants, agreements or contracts. The securities, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

## **Chapter 99 Section 94 Laws 2007**

Section 94. CONFIRMATION OF CONTRACT PROCEEDINGS.--In its discretion, the board may file a petition at any time in the district court in and for any county in which the authority is located wholly or in part, praying a judicial examination and determination of any power conferred or of any tax or rates or charges levied or of any act, proceeding or contract of the authority, whether or not the contract has been executed, including proposed contracts for the acquisition, improvement, equipment, maintenance, operation or disposal of any project for the authority. Such petition shall set forth the facts whereon the validity of such power, assessment, act, proceeding or contract is founded and shall be verified by the chair of the board. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication and posting as provided in the Eastern Sandoval County Arroyo Flood Control Act. Notice of the filing of the petition shall be given by the clerk of the court, under the seal thereof, stating in brief outline the contents of the petition and showing where a full copy of any contract therein mentioned may be examined. The notice shall be served by publication in at least five consecutive issues of a weekly newspaper of general circulation published in the county in which the principal office of the authority is located, and by posting the same in the office of the authority at least thirty days prior to the date fixed in the notice for the hearing on the petition. Jurisdiction shall be complete after such publication and posting. Any owner of property in the authority or person interested in the contract or proposed contract or in the premises may appear and move to dismiss or answer the petition at any time prior to the date fixed for the hearing or within such further time as may be allowed by the court, and the petition shall be taken as confessed by all persons who fail so to appear.

## **Chapter 99 Section 95 Laws 2007**

Section 95. REVIEW AND JUDGMENT OF COURT.--The petition and notice shall be sufficient to give the court jurisdiction, and upon hearing the court shall examine into and determine all matters and things affecting the question submitted, shall make such findings with reference thereto and render such judgment and decree thereon as the case warrants. Costs may be divided or apportioned among any contesting parties in the discretion of the trial court. Review of the judgment of the court may be had as in other similar cases, except that such review shall be applied for within thirty days after the time of the rendition of such judgment or within such additional time as may be allowed by the court within thirty days. The rules of civil procedure shall govern in matters of pleading and practice where not otherwise specified in the Eastern Sandoval County Arroyo Flood Control Act. The court shall disregard any error, irregularity or omission that does not affect the substantial rights of the parties.

## **Chapter 99 Section 96 Laws 2007**

Section 96. PURPOSE OF TAX EXEMPTIONS.--The effectuation of the powers authorized in the Eastern Sandoval County Arroyo Flood Control Act shall and will be in all respects for the benefit of the people of the state, including but not necessarily limited to those residing in the authority exercising any power under that act, for the improvement of their health and living conditions and for the increase of their commerce and prosperity.

## **Chapter 99 Section 97 Laws 2007**

Section 97. PROPERTY EXEMPT FROM GENERAL TAXES.--The authority shall not be required to pay any general (ad valorem) taxes upon any property appertaining to any project authorized in the Eastern Sandoval County Arroyo Flood Control Act and acquired within the state nor the authority's interest therein.

## **Chapter 99 Section 98 Laws 2007**

Section 98. SECURITIES AND INCOME THEREFROM EXEMPT.--Securities issued under the Eastern Sandoval County Arroyo Flood Control Act and the income therefrom shall forever be and remain free and exempt from taxation by the state, the authority and any other public body, except transfer, inheritance and estate taxes.

## **Chapter 99 Section 99 Laws 2007**

Section 99. FREEDOM FROM JUDICIAL PROCESS.--Execution or other judicial process shall not issue against any property of the authority authorized in the Eastern Sandoval County Arroyo Flood Control Act, nor shall any judgment against the authority be a charge or lien upon its property.

## **Chapter 99 Section 100 Laws 2007**

Section 100. RESORT TO JUDICIAL PROCESS.--Section 99 of the Eastern Sandoval County Arroyo Flood Control Act does not apply to or limit the right of the holder of any security, the holder's trustee or any assignee of all or part of the holder's interest, the federal government when it is a party to any contract with the authority, and any other obligee under that act to foreclose, otherwise to enforce, and to pursue any remedies for the enforcement of any pledge or lien given by the authority on the proceeds of taxes, service charges or other revenues.

## **Chapter 99 Section 101 Laws 2007**

Section 101. LEGAL INVESTMENTS IN SECURITIES.--It shall be legal for the state and any of its agencies, departments, instrumentalities, corporations or political subdivisions or any political or public corporation, any bank, trust company, banker, savings bank or institution, any building and loan association, savings and loan association, investment company and any other person carrying on a banking or investment business, any insurance company, insurance association or any other person carrying on an insurance business and any executor, administrator, curator, trustee or any other fiduciary to invest funds or money in their custody in any of the securities authorized to be issued pursuant to the provisions of the Eastern Sandoval County Arroyo Flood Control Act. Such securities shall be authorized security for all public deposits. Nothing contained in this section with regard to legal investments shall be construed as relieving any public body or other person of any duty of exercising reasonable care in selecting securities.

## **Chapter 99 Section 102 Laws 2007**

Section 102. OPEN MEETINGS ACT.--All actions and business of the board, including the first board appointed by the governor, shall be conducted pursuant to the Open Meetings Act.

## **Chapter 99 Section 103 Laws 2007**

Section 103. LIBERAL CONSTRUCTION.--The Eastern Sandoval County Arroyo Flood Control Act, being necessary to secure and preserve the public health, safety and general welfare, the rule of strict consideration shall have no application to that act, but it shall be liberally construed to effect the purposes and objects for which that act is intended.

## **Chapter 99 Section 104 Laws 2007**

Section 104. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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House Bill 939, as amended

with emergency clause

Approved March 30, 2007

## **LAWS 2007, CHAPTER 100**

AN ACT

RELATING TO PUBLIC FINANCE; AMENDING LAWS 1976, CHAPTER 58, SECTION 7 TO PROVIDE FOR THE CLOSURE OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION REVOLVING LOAN FUND; PROHIBITING LOANS FROM THE FUND AFTER JUNE 30, 2007; REVERTING THE FUND BALANCE TO THE GENERAL FUND.

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

### **Chapter 100 Section 1 Laws 2007**

Section 1. Laws 1976, Chapter 58, Section 7 is amended to read:

"Section 7. REVOLVING LOAN FUND.--One hundred thousand dollars (\$100,000) is appropriated from the operating reserve fund to the "department of finance and administration revolving loan fund" hereby created. The director of the department of finance and administration, with the approval of the governor, may make loans from this appropriation to a state agency vouchering through the department of finance and administration for the purpose of alleviating an imminent cash flow problem. The loan shall be repaid in full within thirty calendar days of the date of the loan. No loans shall be made from the fund after June 30, 2007. Once all loans outstanding as of June 30, 2007 have been repaid, the balance in the fund shall revert to the general fund and the department of finance and administration revolving loan fund shall be closed."

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House Bill 1102

Approved March 30, 2007

## **LAWS 2007, CHAPTER 101**

AN ACT

RELATING TO CRIMINAL PROCEDURE; ADDING DOMESTIC VIOLENCE PROGRAMS TO THE LIST OF OPTION CONTRIBUTIONS AS A CONDITION OF A DEFERRED OR SUSPENDED SENTENCE.

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

## **Chapter 101 Section 1 Laws 2007**

Section 1. Section 31-20-6 NMSA 1978 (being Laws 1963, Chapter 303, Section 29-

18, as amended) is amended to read:

"31-20-6. CONDITIONS OF ORDER DEFERRING OR SUSPENDING SENTENCE.--The magistrate, metropolitan or district court shall attach to its order deferring or suspending sentence reasonable conditions as it may deem necessary to ensure that the defendant will observe the laws of the United States and the various states and the ordinances of any municipality. The defendant upon conviction shall be required to reimburse a law enforcement agency or local crime stopper program for the amount of any reward paid by the agency or program for information leading to the defendant's arrest, prosecution or conviction, but in no event shall reimbursement to the crime stopper program preempt restitution to victims pursuant to the provisions of Section 31-17-1 NMSA 1978. The defendant upon conviction shall be required to pay the actual costs of the defendant's supervised probation service to the adult probation and parole division of the corrections department or appropriate responsible agency for deposit to the corrections department intensive supervision fund not exceeding one thousand eight hundred dollars (\$1,800) annually to be paid in monthly installments of not less than twenty-five dollars (\$25.00) and not more than one hundred fifty dollars (\$150), as set by the appropriate district supervisor of the adult probation and parole division, based upon the financial circumstances of the defendant. The defendant's payment of the supervised probation costs shall not be waived unless the court holds an evidentiary hearing and finds that the defendant is unable to pay the costs. If the court waives the defendant's payment of the supervised probation costs and the defendant's financial circumstances subsequently change so that the defendant is able to pay the costs, the appropriate district supervisor of the adult probation and parole division shall advise the court and the court shall hold an evidentiary hearing to determine whether the waiver should be rescinded. The court may also require the defendant to:

A. provide for the support of persons for whose support the defendant is legally responsible;

B. undergo available medical or psychiatric treatment and enter and remain in a specified institution when required for that purpose;

C. be placed on probation under the supervision, guidance or direction of the adult probation and parole division for a term not to exceed five years;

D. serve a period of time in volunteer labor to be known as "community service". The type of labor and period of service shall be at the sole discretion of the court; provided that a person receiving community service shall be immune from any civil liability other than gross negligence arising out of the community service, and a person who performs community service pursuant to court order or a criminal diversion program shall not be entitled to wages, shall not be considered an employee and shall not be entitled to workers' compensation, unemployment benefits or any other benefits otherwise provided by law. As used in this subsection, "community service" means labor that benefits the public at large or a public, charitable or educational entity or institution;

E. make a contribution of not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100), to be paid in monthly installments of not less than five dollars (\$5.00), to a local crime stopper program, a local domestic violence prevention or treatment program or a local drug abuse resistance education program that operates in the territorial jurisdiction of the court; and

F. satisfy any other conditions reasonably related to the defendant's rehabilitation."

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House Bill 1126, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 102**

### AN ACT

RELATING TO EDUCATION; PROVIDING FOR THE TIMELY PAYMENT OF SCHOOL DISTRICT GENERAL OBLIGATIONS BY WITHHOLDING STATE EQUALIZATION GUARANTEE DISTRIBUTIONS; DECLARING AN EMERGENCY.

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

### **Chapter 102 Section 1 Laws 2007**

Section 1. Section 22-18-13 NMSA 1978 (being Laws 2003, Chapter 46, Section 1) is amended to read:

"22-18-13. TIMELY PAYMENT OF SCHOOL DISTRICT OBLIGATIONS.--

A. Whenever a paying agent has not received payment of principal or interest on school district general obligation bonds on the business day immediately prior to the date on which the payment is due, the paying agent shall so notify the department of finance and administration, the department and the school district by

telephone, facsimile or other similar communication, followed by written verification, of the payment status. The department of finance and administration shall immediately contact the school district and determine whether the school district will make the payment by the date on which it is due.

B. Except as provided in Subsection C of this section, if the school district indicates that it will not make the payment by the date on which it is due, the department of finance and administration shall forward the amount in immediately available funds necessary to make the payment due on the bonds to the paying agent and shall withhold an equal amount from the next succeeding payment of the state equalization guarantee distribution. If the amount of the next succeeding payment is insufficient to pay the amount due, the department of finance and administration shall withhold amounts from each succeeding payment of the state equalization guarantee distribution, including payments to be made in succeeding fiscal years but not more than twelve consecutive months of payments, until the total payment of principal and interest due has been withheld.

C. For a payment due on a bond issued on or after the effective date of this 2007 act, if the school district indicates that it will not make the payment by the date on which it is due, the department of finance and administration shall forward the amount in immediately available funds necessary to make the payment due on the bonds to the paying agent from the current fiscal year's undistributed state equalization guarantee distribution to that school district and, if not otherwise repaid by the school district from other legally available funds, withhold the distributions from the school district until the amount has been recouped by the department of finance and administration, provided that, if the amount of the undistributed state equalization guarantee distribution in the current fiscal year is less than the payment due on the bond, the department of finance and administration shall:

(1) forward in immediately available funds to the paying agent an amount equal to the total amount of the school district's undistributed state equalization guarantee distribution and, if not otherwise repaid by the school district from other legally available funds, withhold all distributions to the school district for the remainder of the fiscal year; and

(2) on July 1 of the following fiscal year, forward in immediately available funds an amount equal to the remaining amount due to the paying agent from that year's state equalization guarantee distribution and, if not otherwise repaid by the school district from other legally available funds, withhold an equal amount from the distribution to the school district until the amount paid has been recouped in full.

D. The amounts forwarded to the paying agent by the department of finance and administration shall be applied by the paying agent solely to the payment of the principal or interest due on the general obligation bonds of the school district. The department of finance and administration shall notify the department, the chief financial officer of the school district, the department of finance and administration, the legislative

finance committee and the legislative education study committee of amounts withheld and payments made pursuant to this section.

E. Upon the issuance of general obligation bonds by a school district, the school district shall file with the department of finance and administration a copy of the resolution that authorizes the issuance of the bonds, a copy of the official statement or other offering document for the bonds, the agreement, if any, with the paying agent for the bonds and the name, address and telephone number of the paying agent; provided, however, that the failure of a school district to file the information shall not affect the obligation of the department of finance and administration to withhold the state equalization guarantee distribution pursuant to this section.

F. The state hereby covenants with the purchasers and holders of general obligation bonds issued by school districts that it will not repeal, revoke or rescind the provisions of this section or modify or amend the same so as to limit or impair the rights and remedies granted by this section; provided that nothing in this subsection shall be deemed or construed to require the state to continue the payment of a state equalization guarantee distribution to any school district or to limit or prohibit the state from repealing, amending or modifying any law relating to the amount of state equalization guarantee distributions to school districts or the manner of payment or the timing thereof. Nothing in this section shall be deemed or construed to create a debt of the state with respect to the bonds within the meaning of any state constitutional provision or to create any liability except to the extent provided in this section.

G. Whenever the department of finance and administration is required by this section to make a payment of principal or interest on bonds on behalf of a school district, the department shall initiate an audit of the school district to determine the reason for the nonpayment and to assist the school district, if necessary, in developing and implementing measures to ensure that future payments will be made when due.

H. Whenever the department of finance and administration makes a payment of principal and interest on bonds or other obligations of a school district and withholds amounts from the state equalization guarantee distribution pursuant to this section because of the failure to collect property taxes, the school district may transfer delinquent property taxes later collected out of the school district's bond redemption fund and into its general fund.

I. This section applies to general obligation bonds issued by a school district on or after July 1, 2003."

## **Chapter 102 Section 2 Laws 2007**

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 1226, as amended

with emergency clause

Approved March 30, 2007

## **LAWS 2007, CHAPTER 103**

AN ACT

RELATING TO HISTORIC PRESERVATION AS ECONOMIC DEVELOPMENT;  
ENACTING THE MAIN STREET REVOLVING LOAN ACT; CREATING A REVOLVING  
LOAN PROGRAM FOR THE RESTORATION, REHABILITATION OR REPAIR OF  
ELIGIBLE PROPERTIES; MAKING AN APPROPRIATION.

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

### **Chapter 103 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "Main Street Revolving Loan Act".

### **Chapter 103 Section 2 Laws 2007**

Section 2. PURPOSE.--The purpose of the Main Street Revolving Loan Act is to provide owners of eligible properties with low-cost financial assistance, through the creation of a self-sustaining revolving loan program, in the restoration, rehabilitation and repair of those properties if they meet certain eligibility criteria and would contribute substantially to the state's economic well-being and to a sound and proper balance between preservation and development.

### **Chapter 103 Section 3 Laws 2007**

Section 3. DEFINITIONS.--As used in the Main Street Revolving Loan Act:

- A. "committee" means the main street revolving loan committee;
- B. "division" means the historic preservation division of the cultural affairs department;
- C. "eligible property" means a site, structure, building or object that is subject to the Main Street Act or otherwise found pursuant to rule of the committee to merit preservation pursuant to the Main Street Revolving Loan Act;
- D. "fund" means the main street revolving loan fund; and

E. "property owner" means the sole owner, joint owner, owner in partnership or an owner of a leasehold interest with a term of five years or longer of an eligible property.

## **Chapter 103 Section 4 Laws 2007**

### **Section 4. MAIN STREET REVOLVING LOAN COMMITTEE--COMMITTEE AND DIVISION DUTIES.--**

A. The "main street revolving loan committee" is created, consisting of six members as follows:

- (1) the director of the division or the director's designee;
- (2) the coordinator of the main street program under the Main Street Act or the coordinator's designee;
- (3) the chair of the cultural properties review committee or the chair's designee;
- (4) the director of the local government division of the department of finance and administration or the director's designee;
- (5) a member appointed by the governor with expertise in small loans; and
- (6) the chair of the board of directors of friends of New Mexico mainstreet, inc., or the chair's designee.

B. Public members of the committee shall not be paid but shall be reimbursed for per diem and mileage pursuant to the Per Diem and Mileage Act.

C. The committee shall:

- (1) elect a chair and such other officers as it deems necessary;
- (2) meet at the call of the chair but no less than four times per year;
- (3) by rule, establish eligibility criteria for properties and owners, establish procedures to govern the application outreach and marketing of the loan program and promulgate such other rules as are necessary to carry out the provisions of the Main Street Revolving Loan Act; and
- (4) after considering the recommendations of the division, make awards of loans or loan subsidies.

D. The division shall:

(1) review applications for loans and loan subsidies and make recommendations to the committee;

(2) administer all loans and loan subsidies;

(3) serve as staff to the committee; and

(4) report annually to the governor, the legislative finance committee and the legislature on loans made, loan payments received and all other activities conducted pursuant to the Main Street Revolving Loan Act.

## **Chapter 103 Section 5 Laws 2007**

Section 5. MAIN STREET REVOLVING LOAN FUND.--The "main street revolving loan fund" is created in the state treasury. The fund shall consist of appropriations, loan payments, federal funds received for the purpose of making loans, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year. Money in the fund is appropriated to the committee for the purposes of making revolving loans pursuant to the provisions of the Main Street Revolving Loan Act. Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the director of the division.

## **Chapter 103 Section 6 Laws 2007**

Section 6. LOAN PROGRAM--APPLICATIONS--AWARDS.--

A. The division shall administer a program to make direct loans or loan subsidies and shall contract with one or more lending institutions for deposits to be used for the purpose of making or subsidizing loans to property owners for the restoration, rehabilitation or repair of eligible properties.

B. The committee shall adopt a procedure for the priority ranking of applications and projects, both eligible and ineligible for federal funding assistance, for which loan or loan subsidy applications have been received by the division. The procedure shall be based on factors including geographic distribution of recipient projects, severity of deterioration of the eligible property, degree of architectural and construction detail in the loan application demonstrating the feasibility of the proposed restoration, rehabilitation or repair of the eligible property and availability of other funding for the project. All loans or loan subsidies from the fund shall be granted pursuant to the procedure, and the procedure shall be reviewed annually by the division and the committee.

C. Loans or loan subsidies shall be made by the committee pursuant to the following criteria:

(1) loans or loan subsidies from the fund shall be made only to property owners who:

(a) agree to repay the loan and to maintain the eligible property as restored, rehabilitated or repaired for the period specified in the loan but not less than five years;

(b) agree to maintain complete and proper financial records regarding the eligible property and to make these available to the division and the committee on request;

(c) agree to complete the proposed restoration, rehabilitation or repair work on the eligible property within twenty-four months from the date of loan approval by the committee;

(d) provide sufficient collateral security interest in the eligible property to the state in accordance with rules established by the committee;

(e) meet the income eligibility criteria of the rules established by the committee;

(f) demonstrate to the satisfaction of the division in accordance with rules established by the committee that the property owner has been denied a loan by at least two financial lenders for the same amount, for the same purpose and subject to the same general conditions as the loan that the property owner seeks to borrow from the fund;

(g) submit conceptual design and business plans with respect to the use of the loan proceeds, prepared with the assistance of the local main street project organization, the state main street program or other professionals with experience in architecture, design or business and financial planning;

(h) agree to all financial and other commitments, terms and conditions for the loan established by the division or the committee; and

(i) agree to any restrictions on assignments of loans from the fund required by the committee or the division;

(2) a loan shall be made for a period not to exceed five years with interest on the unpaid balance at a rate not greater than the yield at the time of loan approval on United States treasury bills with a maturity of three hundred sixty-five days plus one-half of one percent. A loan shall be repaid by the property owner in equal installments not less often than annually with the first installment due within one year of the date the loan is issued. If a property owner transfers ownership of the eligible property with respect to which a loan is made, all amounts outstanding under the loan shall become immediately due and payable and the property owner shall make a final interest payment on the

principal amount due at a rate equal to the interest rate on the loan plus an additional one percent;

(3) loans shall be made only for eligible costs. Eligible costs include architectural, design, graphic design, construction and engineering documents and planning costs, inspection of work in progress, contracted restoration, rehabilitation and repair costs and costs necessary to meet code requirements. Eligible costs do not include costs of land acquisition, legal costs or fiscal agents' fees; and

(4) loans are not assignable.

D. The division shall deposit in the fund all receipts from the repayment of loans made pursuant to the Main Street Revolving Loan Act.

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House Transportation and Public Works Committee

Substitute for House Bill 1266, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 104**

AN ACT

RELATING TO MEDICAL CARE; PROVIDING TORT COVERAGE UNDER THE TORT CLAIMS ACT FOR CERTAIN HEALTH CARE PROVIDERS.

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

### **Chapter 104 Section 1 Laws 2007**

Section 1. Section 41-4-3 NMSA 1978 (being Laws 1976, Chapter 58, Section 3, as amended) is amended to read:

"41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

A. "board" means the risk management advisory board;

B. "governmental entity" means the state or any local public body as defined in Subsections C and H of this section;

C. "local public body" means all political subdivisions of the state and their agencies, instrumentalities and institutions and all water and natural gas associations organized pursuant to Chapter 3, Article 28 NMSA 1978;

D. "law enforcement officer" means a full-time salaried public employee of a governmental entity whose principal duties under law are to hold in custody any person accused of a criminal offense, to maintain public order or to make arrests for crimes, or members of the national guard when called to active duty by the governor;

E. "maintenance" does not include:

(1) conduct involved in the issuance of a permit, driver's license or other official authorization to use the roads or highways of the state in a particular manner; or

(2) an activity or event relating to a public building or public housing project that was not foreseeable;

F. "public employee" means an officer, employee or servant of a governmental entity, excluding independent contractors except for individuals defined in Paragraphs (7), (8), (10) and (14) of this subsection, or of a corporation organized pursuant to the Educational Assistance Act, the Small Business Investment Act or the Mortgage Finance Authority Act or a licensed health care provider, who has no medical liability insurance, providing voluntary services as defined in Paragraph (16) of this subsection and including:

(1) elected or appointed officials;

(2) law enforcement officers;

(3) persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation;

(4) licensed foster parents providing care for children in the custody of the human services department, corrections department or department of health, but not including foster parents certified by a licensed child placement agency;

(5) members of state or local selection panels established pursuant to the Adult Community Corrections Act;

(6) members of state or local selection panels established pursuant to the Juvenile Community Corrections Act;

(7) licensed medical, psychological or dental arts practitioners providing services to the corrections department pursuant to contract;

(8) members of the board of directors of the New Mexico medical insurance pool;

(9) individuals who are members of medical review boards, committees or panels established by the educational retirement board or the retirement board of the public employees retirement association;

(10) licensed medical, psychological or dental arts practitioners providing services to the children, youth and families department pursuant to contract;

(11) members of the board of directors of the New Mexico educational assistance foundation;

(12) members of the board of directors of the New Mexico student loan guarantee corporation;

(13) members of the New Mexico mortgage finance authority;

(14) volunteers, employees and board members of court-appointed special advocate programs;

(15) members of the board of directors of the small business investment corporation; and

(16) health care providers licensed in New Mexico who render voluntary health care services without compensation in accordance with rules promulgated by the secretary of health. The rules shall include requirements for the types of locations at which the services are rendered, the allowed scope of practice and measures to ensure quality of care.

G. "scope of duty" means performing any duties that a public employee is requested, required or authorized to perform by the governmental entity, regardless of the time and place of performance; and

H. "state" or "state agency" means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions."

## **Chapter 104 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Public Affairs Committee Substitute for

Senate Bill 23, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 105**

AN ACT

RELATING TO WILDLIFE; PROVIDING FOR GAME AND FISH AUTHORIZATIONS TO BE ISSUED FOR SPECIAL EVENTS CALLED BY THE GOVERNOR.

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

### **Chapter 105 Section 1 Laws 2007**

Section 1. A new section of Chapter 17, Article 3 NMSA 1978 is enacted to read:

"HUNTING AND FISHING AUTHORIZATIONS--GOVERNOR'S SPECIAL EVENTS.--The director of the department of game and fish may annually make available to the governor no more than twelve big game special authorizations and twelve game bird or trophy fish special authorizations. The authorizations shall be allocated by auction in conjunction with special events called by the governor to raise money for fish and wildlife conservation. Any auction used to allocate an authorization shall comply with rules adopted by the state game commission. Each authorization shall allow the holder to purchase a license to hunt or fish for the species indicated on the authorization during dates and times at locations specified by the state game commission. The director may designate the species allowable for each authorization, but no more than three authorizations shall be issued for any one species each year. Money collected pursuant to the special authorizations of the governor shall be deposited in the game protection fund."

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Senate Bill 87, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 106**

AN ACT

RELATING TO CONSUMER CREDIT; PROVIDING FOR A SECURITY FREEZE ON THE RELEASE OF CONSUMER CREDIT INFORMATION; ENACTING THE CREDIT REPORT SECURITY ACT; PROVIDING PENALTIES.

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

### **Chapter 106 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "Credit Report Security Act".

## **Chapter 106 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the Credit Report Security Act:

A. "consumer" means an individual who is a resident of New Mexico;

B. "consumer reporting agency" means any person that, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing credit reports to third parties;

C. "credit report" means a written, oral or other communication of information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living that is used or expected to be used or collected for the purpose of serving as a factor in establishing the consumer's eligibility for credit, insurance, investment, benefit, employment or other purpose as authorized by the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681a;

D. "person" means an individual, corporation, firm, association, organization, trust, estate, cooperative, business, partnership, limited liability company, joint venture, governmental agency or subdivision or any legal or commercial entity; and

E. "security freeze" means a notice placed in a consumer's credit report, at the request of the consumer and subject to certain exceptions, that prohibits a consumer reporting agency from releasing the consumer's credit report or score relating to the extension of credit or the opening of new accounts without the express authorization of the consumer.

## **Chapter 106 Section 3 Laws 2007**

Section 3. SECURITY FREEZE.--

A. A consumer may elect to place a security freeze on the consumer's credit report by making a request to a consumer reporting agency by means of certified or regular mail sent to an address designated by the consumer reporting agency, or by means of a telephone or a secure electronic method if such means are provided by the agency. A consumer shall provide any personal identification required by the consumer reporting agency and pay a fee, if applicable.

B. A consumer reporting agency shall place a security freeze on a consumer's credit report no later than three business days after receiving a request from the consumer.

C. Within five business days of placing a security freeze on a consumer's credit report, a consumer reporting agency shall:

(1) send a written confirmation of the security freeze to the consumer; and

(2) provide the consumer with a unique personal identification number, password or similar device to be used by the consumer when providing authorization for the release of the consumer's credit report to a specific person or for a specific period of time or for permanent removal of the freeze.

D. While a security freeze is in effect, a consumer may authorize a consumer reporting agency to release the consumer's credit report to a specific person or to release the credit report for a specific period of time by contacting the consumer reporting agency by regular or certified mail or by telephone, and as of September 1, 2008, by contacting the consumer reporting agency by mail, by telephone or by a secure electronic method, and providing:

(1) proper identification;

(2) the unique personal identification number, password or similar device;

(3) information regarding the party that is to have access to the credit report or the time period during which the credit report can be released; and

(4) payment of a fee, if applicable

E. A consumer reporting agency that receives a request pursuant to Subsection D of this section shall release a consumer's credit report as requested by the consumer within three business days after the business day on which the consumer's request by regular or certified mail or by telephone is received by the consumer reporting agency. As of September 1, 2008, a consumer reporting agency that receives a request pursuant to Subsection D of this section shall release a consumer's credit report as requested by the consumer within fifteen minutes after the consumer's request is received by the consumer reporting agency through the use of a telephone or a secure electronic method provided by the agency, which may include the use of the internet, facsimile or other electronic means; provided that the consumer reporting agency is not required to release the credit report within fifteen minutes unless the consumer's request is received by the consumer reporting agency between the hours of 6:00 a.m. and 9:30 p.m. mountain standard or mountain daylight time, as applicable, Sunday through Saturday.

F. A consumer reporting agency need not release a credit report within the time periods set forth in Subsection E of this section if:

(1) the consumer fails to meet the requirements of Subsection D of this section; or

(2) the consumer reporting agency's ability to remove the security freeze within fifteen minutes is prevented by:

(a) an act of God, including fire, earthquake, hurricane, storm or similar natural disaster or phenomenon;

(b) unauthorized or illegal acts by a third party, including terrorism, sabotage, riots, vandalism, labor strikes or disputes disrupting operations or similar occurrences;

(c) operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failure inhibiting response time or similar disruption;

(d) governmental action, including emergency orders or regulations, judicial or law enforcement actions or similar directives;

(e) regularly scheduled maintenance of, or updates to, the consumer reporting agency's systems during other than normal business hours; or

(f) commercially reasonable maintenance of, or repair to, the consumer reporting agency's systems that is unexpected or unscheduled.

G. If a consumer reporting agency erroneously releases information on a credit report while a security freeze is in effect and without a consumer's authorization, it shall notify the consumer of the release of information within five business days of the agency's discovery of the erroneous release of information and inform the consumer of the specific information released and the third party to whom it has been released.

H. A security freeze shall remain in place until a consumer requests its removal. A consumer reporting agency shall remove the security freeze within three business days after receiving a request from a consumer who provides the unique personal identification number, password or similar device and proper identification.

I. A consumer reporting agency may charge a consumer a fee of no more than ten dollars (\$10.00) for the placement of a security freeze. A consumer reporting agency may charge a fee of no more than five dollars (\$5.00) for the release of a credit report, upon which a security freeze has been placed, to a specific person or for a specific period of time. A consumer reporting agency may charge a fee of no more than five dollars (\$5.00) for the removal of a security freeze. A fee shall not be charged to a consumer who is sixty-five years of age or older or to a victim of identity theft who provides a valid police or investigative report filed with a law enforcement agency alleging the crime of identity theft.

J. If a consumer's credit report was frozen due to a material misrepresentation of fact by the consumer and a consumer reporting agency intends to remove the freeze,

the consumer reporting agency shall notify the consumer in writing five business days prior to removing the security freeze on the consumer's credit report.

K. A consumer reporting agency may advise a third party that a security freeze is in effect with respect to a consumer's credit report. A consumer reporting agency shall not suggest or otherwise state or imply to a third party that the security freeze reflects a negative credit score, history, report or rating.

L. The provisions of this section do not prevent a consumer reporting agency from releasing a consumer's credit report:

(1) to a person or the person's subsidiary, affiliate, agent or assignee with which the consumer has or, prior to assignment, had an account, contract or debtor-

creditor relationship for the purpose of reviewing the account or collecting the financial obligation owing for the account, contract or debt, or to a prospective assignee of a financial obligation owing by the consumer in conjunction with the proposed purchase of the financial obligation. As used in this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases and account upgrades and enhancements;

(2) to a subsidiary, affiliate, agent, assignee or prospective assignee of a person to whom access has been granted by the consumer pursuant to Subsection D of this section for the purpose of facilitating the extension of credit or other permissible use;

(3) to a person or entity administering a credit file monitoring subscription service to which the consumer has subscribed;

(4) to a person or entity for the purpose of providing a consumer with a copy of the consumer's credit report upon the consumer's request;

(5) to a person acting pursuant to a court order, warrant or subpoena;

(6) to the child support enforcement division of the human services department for the purpose of carrying out its statutory duties of establishing and collecting child support obligations;

(7) to a governmental agency acting to investigate fraud, to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory duties;

(8) to a person for the purposes of prescreening as defined by the federal Fair Credit Reporting Act;

(9) from a consumer reporting agency's database or file that consists only of and is used solely for one or more of the following:

- (a) criminal record information;
- (b) tenant screening;
- (c) employment screening; or
- (d) fraud prevention or detection; or

(10) to a person or entity for use in setting or adjusting an insurance rate, adjusting an insurance claim or underwriting for insurance purposes.

M. The following entities are not required to place a security freeze on a credit report:

(1) a consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency or multiple consumer credit reporting agencies and does not maintain a permanent database of credit information from which new consumer credit reports are produced. However, a consumer reporting agency acting as a reseller shall honor any security freeze placed on a consumer credit report by another consumer reporting agency;

(2) a check services or fraud prevention services company that issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers or similar methods of payment; or

(3) a deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, automatic teller machine abuse or similar negative information regarding a consumer to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution.

## **Chapter 106 Section 4 Laws 2007**

Section 4. NOTICE OF RIGHTS.--At any time that a consumer reporting agency is required to provide the consumer with a summary of rights pursuant to Section 609 of the federal Fair Credit Reporting Act, the following notice shall be included:

"New Mexico Consumers Have the Right

to Obtain a Security Freeze

You may obtain a security freeze on your credit report to protect your privacy and ensure that credit is not granted in your name without your knowledge. You have a right to place a security freeze on your credit report pursuant to the Credit Report Security Act.

The security freeze will prohibit a consumer reporting agency from releasing any information in your credit report without your express authorization or approval.

The security freeze is designed to prevent credit, loans and services from being approved in your name without your consent. When you place a security freeze on your credit report, you will be provided with a personal identification number, password or similar device to use if you choose to remove the freeze on your credit report or to temporarily authorize the release of your credit report to a specific party or parties or for a specific period of time after the freeze is in place. To remove the freeze or to provide authorization for the temporary release of your credit report, you must contact the consumer reporting agency and provide all of the following:

- (1) the unique personal identification number, password or similar device provided by the consumer reporting agency;
- (2) proper identification to verify your identity;
- (3) information regarding the third party or parties who are to receive the credit report or the period of time for which the credit report may be released to users of the credit report; and
- (4) payment of a fee, if applicable.

A consumer reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report shall comply with the request no later than three business days after receiving the request. As of September 1, 2008, a consumer reporting agency shall comply with the request within fifteen minutes of receiving the request by a secure electronic method or by telephone.

A security freeze does not apply in all circumstances, such as where you have an existing account relationship and a copy of your credit report is requested by your existing creditor or its agents for certain types of account review, collection, fraud control or similar activities; for use in setting or adjusting an insurance rate or claim or insurance underwriting; for certain governmental purposes; and for purposes of prescreening as defined in the federal Fair Credit Reporting Act.

If you are actively seeking a new credit, loan, utility, telephone or insurance account, you should understand that the procedures involved in lifting a security freeze may slow your own applications for credit. You should plan ahead and lift a freeze, either completely if you are shopping around or specifically for a certain

creditor, with enough advance notice before you apply for new credit for the lifting to take effect. You should contact a consumer reporting agency and request it to lift the freeze at least three business days before applying. As of September 1, 2008, if you contact a consumer reporting agency by a secure electronic method or by telephone, the consumer reporting agency should lift the freeze within fifteen minutes. You have a right to bring a civil action against a consumer reporting agency that violates your rights under the Credit Report Security Act."

## **Chapter 106 Section 5 Laws 2007**

Section 5. VIOLATION OF SECURITY FREEZE--CIVIL LIABILITY.--If a consumer reporting agency releases information placed under a security freeze in violation of the provisions of Section 3 of the Credit Report Security Act, the affected consumer may bring a civil action against the consumer reporting agency for:

- A. injunctive relief to prevent further violation of the security freeze;
- B. any actual damages sustained by the consumer as a result of the violation;
- C. a civil penalty in an amount not to exceed two thousand dollars (\$2,000) for each violation of the security freeze; and
- D. costs of the action and reasonable attorney fees.

## **Chapter 106 Section 6 Laws 2007**

Section 6. SEVERABILITY.--If any part or application of the Credit Report Security Act is held invalid, the remainder or its application to other persons or situations shall not be affected.

## **Chapter 106 Section 7 Laws 2007**

Section 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Judiciary Committee Substitute for

Senate Bills 165 and 448, as amended

Approved March 30, 2007

# **LAWS 2007, CHAPTER 107**

AN ACT

RELATING TO HEALTH INSURANCE; REQUIRING A STUDY OF AUTISM SPECTRUM DISORDER SERVICES AND SYSTEMS.

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

**Chapter 107 Section 1 Laws 2007**

Section 1. TEMPORARY PROVISION--STUDY OF AUTISM SPECTRUM DISORDER SERVICES AND SYSTEMS.--The human services department, in collaboration with private insurance companies and consumers, shall conduct a study of autism spectrum disorder services, study the systems that serve the population affected by autism spectrum disorders and determine the most appropriate funding mechanisms, including health insurance, state disability insurance or developmental disability waivers or autism waivers. The human services department shall report its findings and recommendations to the legislative finance committee and the appropriate interim legislative committee on or before November 1, 2007.

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Senate Public Affairs Committee

Substitute for Senate Bill 197, as amended

Approved March 30, 2007

**LAWS 2007, CHAPTER 108**

AN ACT

RELATING TO HEALTH AND SAFETY; ALLOWING HUMAN IMMUNODEFICIENCY VIRUS TESTING DURING ROUTINE MEDICAL CARE AND PROVIDING FOR THE OPTION TO DECLINE TESTING; AMENDING SECTIONS OF THE NMSA 1978.

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

**Chapter 108 Section 1 Laws 2007**

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

"24-2B-2. INFORMED CONSENT.--No person shall perform a test designed to identify the human immunodeficiency virus or its antigen or antibody without first obtaining the informed consent of the person upon whom the test is performed, except

as provided in Section 24-2B-5, 24-2B-5.1, 24-2B-5.2 or 24-2B-5.3 NMSA 1978. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses and limitations and the meaning of its results. Consent need not be in writing if there is documentation in the medical record that the test has been explained and the consent has been obtained. The requirement for full pre-test counseling may be waived under the following circumstances:

A. the performance of a prenatal test to determine if the human immunodeficiency virus or its antigen is present in a pregnant woman; provided that the woman, or her authorized representative, after having been informed of the option to decline the human immunodeficiency virus test, may choose not to have the human immunodeficiency virus test performed as a part of the routine prenatal testing if she or her authorized representative provides a written statement as follows:

"I am aware that a test to identify the human immunodeficiency virus or its antigen or antibody is a part of routine prenatal testing. However, I voluntarily and knowingly choose not to have the human immunodeficiency virus test performed.

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(Name of patient or authorized representative)

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(Signature and date)."; or

B. when human immunodeficiency virus testing is part of routine medical care."

## **Chapter 108 Section 2 Laws 2007**

Section 2. Section 24-2B-5 NMSA 1978 (being Laws 1989, Chapter 227, Section 5, as amended) is amended to read:

"24-2B-5. INFORMED CONSENT NOT REQUIRED.--Informed consent for testing is not required and the provisions of Section 24-2B-2 NMSA 1978 do not apply for:

A. a health care provider or health facility performing a test on the donor or recipient when the health care provider or health facility procures, processes, distributes or uses a human body part, including tissue and blood or blood products, donated for a purpose specified under the Uniform Anatomical Gift Act or for transplant recipients or semen provided for the purpose of artificial insemination and the test is necessary to ensure medical acceptability of a recipient or the gift or semen for the purposes intended;

B. the performance of a test in bona fide medical emergencies when the subject of the test is unable to grant or withhold consent and the test results are necessary for medical diagnostic purposes to provide appropriate emergency care or treatment, except that post-test counseling or referral for counseling shall nonetheless be required when the individual is able to receive that post-test counseling. Necessary treatment shall not be withheld pending test results;

C. the performance of a test for the purpose of research if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher; or

D. the performance of a test done in a setting where the identity of the test subject is not known, such as in public health testing programs and sexually transmitted disease clinics."

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Senate Judiciary Committee Substitute

for Senate Bill 270

Approved March 30, 2007

## **LAWS 2007, CHAPTER 109**

AN ACT

RELATING TO BUSINESS LICENSES; PROVIDING FOR JURISDICTION OF AMATEUR MIXED MARTIAL ARTS CONTESTS; EXPANDING DEFINITIONS; AMENDING AND ENACTING SECTIONS OF THE PROFESSIONAL ATHLETIC COMPETITION ACT; DECLARING AN EMERGENCY.

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

### **Chapter 109 Section 1 Laws 2007**

Section 1. Section 60-2A-2 NMSA 1978 (being Laws 1980, Chapter 90, Section 2, as amended) is amended to read:

"60-2A-2. DEFINITIONS.--As used in the Professional Athletic Competition Act:

A. "board" means the medical advisory board;

B. "commission" means the New Mexico athletic commission;

C. "contestant" means a person who engages in unarmed combat for remuneration;

D. "department" means the regulation and licensing department;

E. "foreign co-promoter" means a promoter who has no place of business in this state;

F. "manager":

(1) means a person who:

(a) undertakes to represent the interests of another person by contract, agreement or other arrangement in procuring, arranging or conducting a professional contest or exhibition in which the represented person will participate as a contestant;

(b) directs or controls the activities of an unarmed combatant relating to the participation of the unarmed combatant in professional contests or exhibitions;

(c) receives or is entitled to receive at least ten percent of the gross purse or gross income of any professional unarmed combatant for services relating to the participation of the unarmed combatant in a professional contest or exhibition; or

(d) receives compensation for services as an agent or representative of an unarmed combatant; and

(2) does not include an attorney who is licensed to practice law in this state if the attorney's participation in any of the activities described in Paragraph (1) of this subsection is limited solely to the legal representation of a client who is an unarmed combatant;

G. "professional boxer" or "professional wrestler" means an individual who competes for money, prizes or purses or who teaches, pursues or assists in the practice of boxing, wrestling or martial arts as a means of obtaining a livelihood or pecuniary gain;

H. "professional contest" means any professional boxing, wrestling or martial arts contest or exhibition, whether or not an admission fee is charged for admission of the public;

I. "promoter" means any person, and in the case of a corporate promoter includes any officer, director or stockholder of the corporation, who produces or stages any professional boxing, wrestling or martial arts contest, exhibition or closed circuit television show;

J. "purse" means the financial guarantee or any other remuneration, or part thereof, for which professional boxers or professional wrestlers are participating in a contest or exhibition and includes the participant's share of any payment received for radio broadcasting, television or motion picture rights;

K. "ring official" means any person who performs an official function during the progress of a contest or exhibition;

L. "unarmed combat" means boxing, wrestling, martial arts or any form of competition in which a blow is usually struck that may reasonably be expected to inflict injury; and

M. "unarmed combatant" means:

(1) a person who engages in unarmed combat in a contest or exhibition, whether or not the person receives remuneration, including a wrestler, boxer, mixed martial artist or other contestant; or

(2) an amateur boxer who is registered with United States amateur boxing, incorporated, or any other amateur organization recognized by the commission and participates in an amateur boxing contest or exhibition in the state that is registered and sanctioned by United States amateur boxing, incorporated or golden gloves of America."

## **Chapter 109 Section 2 Laws 2007**

Section 2. A new section of the Professional Athletic Competition Act is enacted to read:

"JURISDICTION OF COMMISSION OVER UNARMED COMBAT CONTESTS.--

A. The commission shall have sole direction, management, control and jurisdiction over all contests or exhibitions of unarmed combat to be conducted, held or given within New Mexico, and no contest or exhibition may be conducted, held or given within the state except in accordance with the provisions of the Professional Athletic Competition Act.

B. Any contest involving a form of Oriental unarmed self-defense must be conducted pursuant to rules for that form that are approved by the commission before the contest is conducted, held or given in the state except in accordance with the provisions of the Professional Athletic Competition Act."

## **Chapter 109 Section 3 Laws 2007**

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 305, as amended

with emergency clause

Approved March 30, 2007

## **LAWS 2007, CHAPTER 110**

### **AN ACT**

RELATING TO TAXATION; PROVIDING FOR DEDUCTIONS FROM THE NEW MEXICO GASOLINE TAX AND SPECIAL FUEL EXCISE TAX PAID BY

OUT-OF-STATE TERMINALS AT WHICH THE GASOLINE OR SPECIAL FUEL TO BE IMPORTED INTO NEW MEXICO WAS LOADED; REQUIRING SURETY BONDS FROM CERTAIN WEIGHT DISTANCE TAX TAXPAYERS AND SPECIAL FUEL USERS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

### **Chapter 110 Section 1 Laws 2007**

Section 1. Section 7-13-4 NMSA 1978 (being Laws 1991, Chapter 9, Section 32, as amended) is amended to read:

"7-13-4. DEDUCTIONS--GASOLINE TAX.--In computing the gasoline tax due, the following amounts of gasoline may be deducted from the total amount of gasoline received in New Mexico during the tax period, provided satisfactory proof thereof is furnished to the department:

A. gasoline received in New Mexico, but exported from this state by a rack operator, distributor or wholesaler other than in the fuel supply tank of a motor vehicle or sold for export by a rack operator or distributor; provided that, in either case:

(1) the person exporting the gasoline is registered in or licensed by the destination state to pay that state's gasoline or equivalent fuel tax;

(2) proof is submitted that the destination state's gasoline or equivalent fuel tax has been paid or is not due with respect to the gasoline; or

(3) the destination state's gasoline or equivalent fuel tax is paid to New Mexico in accordance with the terms of an agreement entered into pursuant to Section 9-11-12 NMSA 1978 with the destination state;

B. gasoline received in New Mexico sold to the United States or an agency or instrumentality thereof for the exclusive use of the United States or an agency or instrumentality thereof. Gasoline sold to the United States includes gasoline delivered into the supply tank of a government-licensed vehicle of the United States;

C. gasoline received in New Mexico sold to an Indian nation, tribe or pueblo or a political subdivision, agency or instrumentality of that Indian nation, tribe or pueblo for the exclusive use of the Indian nation, tribe or pueblo or a political subdivision, agency or instrumentality thereof. Gasoline sold to an Indian nation, tribe or pueblo includes gasoline delivered into the supply tank of a government-licensed vehicle of the Indian nation, tribe or pueblo;

D. gasoline received in New Mexico, dyed in accordance with department regulations and used in a manner other than for propulsion of motor vehicles on the highways of this state or motorboats or activities ancillary to that propulsion;

E. gasoline received in New Mexico and sold at retail by a registered Indian tribal distributor if:

(1) the sale occurs on the Indian reservation, pueblo grant or trust land of the distributor's Indian nation, tribe or pueblo;

(2) the gasoline is placed into the fuel supply tank of a motor vehicle on that reservation, pueblo grant or trust land; and

(3) the Indian nation, tribe or pueblo has certified to the department that it has in effect an excise, privilege or similar tax on the gasoline; provided that the volume of gasoline deducted pursuant to this subsection shall be the total gallons sold in accordance with the provisions of this subsection multiplied by a fraction the numerator of which is the rate of the tribal tax certified to the department by the Indian nation, tribe or pueblo and the denominator of which is the rate of the gasoline tax imposed pursuant to the Gasoline Tax Act, but if the fraction exceeds one, it shall be one for purposes of determining the deduction;

F. gasoline received in New Mexico and sold by a registered Indian tribal distributor from a nonmobile storage container located within that distributor's Indian reservation, pueblo grant or trust land for resale outside that distributor's Indian reservation, pueblo grant or trust land; provided the department certifies that the distributor claiming the deduction sold no less than one million gallons of gasoline from a nonmobile storage container located within that distributor's Indian reservation, pueblo grant or trust land for resale outside that distributor's Indian reservation, pueblo grant or trust land during the period of May through August 1998; and provided further that the amount of gasoline deducted by a registered Indian tribal distributor pursuant to this subsection shall not exceed two million five hundred thousand gallons per month, calculated as a monthly average during the calendar year. Volumes deducted pursuant to Subsection E of this section shall not be deducted pursuant to this subsection; and

G. gasoline received in New Mexico on which New Mexico gasoline tax was paid by the out-of-state terminal at which the gasoline was loaded, provided that documentation that the gasoline was to be imported into New Mexico was provided to the terminal operator by the person receiving the fuel."

## **Chapter 110 Section 2 Laws 2007**

Section 2. A new section of the Weight Distance Tax Act is enacted to read:

"TAXPAYERS OF WEIGHT DISTANCE TAX--SURETY BOND REQUIRED--EXCEPTIONS.--

A. Except as required in Subsection H of this section, every taxpayer with a commercial domicile not located in an International Fuel Tax Agreement jurisdiction shall file with the department a bond on a form approved by the attorney general with a surety company authorized by the public regulation commission to transact business in New Mexico as a surety and upon which bond the taxpayer is the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt filing of true reports and the payment by the taxpayer to the department of all taxes levied by the Weight Distance Tax Act, together with all applicable penalties and interest on the taxes.

B. In lieu of the bond, the taxpayer may elect to file with the department cash or bonds of the United States or New Mexico or of any political subdivision of the state.

C. The total amount of the bond, cash or securities required of a taxpayer shall be fixed by the department and may be increased or reduced by the department at any time, subject to the limitations provided in this section.

D. In fixing the total amount of the bond, cash or securities required of a taxpayer required to post a bond, the department shall require an amount equivalent to the total estimated tax due for two quarters; provided, however, that the total amount of bond, cash or securities required of a taxpayer shall never be less than five hundred dollars (\$500) per motor vehicle on which the weight distance tax is imposed.

E. In the event the department determines that the amount of the existing bond, cash or securities is insufficient to ensure payment to New Mexico of the amount of the weight distance tax and penalties and interest for which a taxpayer is or may at any time become liable, the taxpayer, upon written demand from the department mailed to the last known address of the taxpayer as shown on the records of the department, shall file an additional bond, cash or securities in the manner, form and amount determined by the department to be necessary to secure at all times the payment by the taxpayer of all taxes, penalties and interest due pursuant to the Weight Distance Tax Act.

F. A surety on a bond furnished by a taxpayer as required by this section shall be released and discharged from all liability accruing on the bond after the expiration of

ninety days from the date upon which the surety files with the department a written request to be released and discharged; provided, however, that the request shall not operate to release or discharge the surety from liability already accrued or that shall accrue before the expiration of the ninety-day period, unless a new bond is filed during the ninety-day period, in which case the previous bond may be canceled as of the effective date of the new bond. On receipt of notice of the request to cancel the bond due to filing of a new bond, the department shall promptly notify the taxpayer who furnished the bond that the taxpayer, on or before the expiration of the ninety-day period, shall file with the department a new bond with a surety satisfactory to the department in the amount and form required in this section.

G. A taxpayer who is required to file a bond with or provide cash or securities to the department in accordance with this section and who is required by another state law to file another bond with or provide cash or securities to the department may elect to file a combined bond or provide cash or securities applicable to the provision of both this section and the other law, with the approval of the secretary. The amount of the combined bond, cash or securities shall be determined by the department, and the form of the combined bond shall be approved by the attorney general.

H. A taxpayer who is required to file a bond pursuant to the provisions of this section and who for the eight consecutive quarters preceding the date of request has not been a delinquent taxpayer pursuant to the Weight Distance Tax Act may request to be exempt from the requirement to file a bond beginning with the first day of the first quarter following the end of the eight-quarter period. If a taxpayer exempted pursuant to this subsection subsequently becomes a delinquent taxpayer, the department may terminate the exemption and require the filing of a bond in accordance with this section. If the department terminates the exemption, the termination shall not be effective any earlier than ten days after the date the department notifies the taxpayer in writing of the termination.

I. As used in this section, "taxpayer" means a registrant, owner or operator of a motor vehicle on whom the weight distance tax is imposed."

## **Chapter 110 Section 3 Laws 2007**

Section 3. Section 7-16A-10 NMSA 1978 (being Laws 1992, Chapter 51, Section 10, as amended) is amended to read:

"7-16A-10. DEDUCTIONS--SPECIAL FUEL EXCISE TAX--SPECIAL FUEL SUPPLIERS.--In computing the tax due, the following amounts of special fuel may be deducted from the total amount of special fuel received in New Mexico during the tax period, provided that satisfactory proof thereof is furnished to the department:

A. special fuel received in New Mexico, but exported from this state by a rack operator, special fuel supplier or dealer, other than in the fuel supply tank of a motor vehicle or sold for export by a rack operator or distributor; provided that, in either case:

(1) the person exporting the special fuel is registered in or licensed by the destination state to pay that state's special fuel or equivalent fuel tax;

(2) proof is submitted that the destination state's special fuel or equivalent fuel tax has been paid or is not due with respect to the special fuel; or

(3) the destination state's special fuel or equivalent fuel tax is paid to New Mexico in accordance with the terms of an agreement entered into pursuant to Section 9-11-12 NMSA 1978 with the destination state;

B. special fuel sold to the United States or any agency or instrumentality thereof for the exclusive use of the United States or any agency or instrumentality thereof. Special fuel sold to the United States includes special fuel delivered into the supply tank of a government-

licensed vehicle;

C. special fuel sold to the state of New Mexico or any political subdivision, agency or instrumentality thereof for the exclusive use of the state of New Mexico or any political subdivision, agency or instrumentality thereof. Special fuel sold to the state of New Mexico includes special fuel delivered into the supply tank of a government-licensed vehicle;

D. special fuel sold to an Indian nation, tribe or pueblo or any agency or instrumentality thereof for the exclusive use of the Indian nation, tribe or pueblo or any agency or instrumentality thereof. Special fuel sold to an Indian nation, tribe or pueblo includes special fuel delivered into the supply tank of a government-licensed vehicle;

E. special fuel dyed in accordance with federal regulations;

F. special fuel that is number 2 diesel fuel sold for the generation of power to propel a vehicle authorized by contract with the public education department as a school bus; provided that the fuel has a distillation temperature of five hundred degrees Fahrenheit at a ten percent recovery point and six hundred forty degrees Fahrenheit at a ninety percent recovery point; and

G. special fuel received in New Mexico on which New Mexico special fuel excise tax was paid by the out-of-state terminal at which the special fuel was loaded, provided that documentation that the special fuel was to be imported into New Mexico was provided to the terminal operator by the person receiving the fuel."

## **Chapter 110 Section 4 Laws 2007**

Section 4. A new section of the Special Fuels Supplier Tax Act is enacted to read:

## "SPECIAL FUEL USERS--SURETY BOND REQUIRED--EXCEPTIONS.--

A. Except as required in Subsection H of this section, every special fuel user with a commercial domicile not located in an International Fuel Tax Agreement jurisdiction shall file with the department a bond on a form approved by the attorney general with a surety company authorized by the public regulation commission to transact business in New Mexico as a surety and upon which bond the special fuel user is the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt filing of true reports and the payment by the special fuel user to the department of all taxes levied by the Special Fuels Supplier Tax Act, together with all applicable penalties and interest on the taxes.

B. In lieu of the bond, the special fuel user may elect to file with the department cash or bonds of the United States or New Mexico or of any political subdivision of the state.

C. The total amount of the bond, cash or securities required of a special fuel user shall be fixed by the department and may be increased or reduced by the department at any time, subject to the limitations provided in this section.

D. In fixing the total amount of the bond, cash or securities required of a special fuel user required to post a bond, the department shall require an amount equivalent to the total estimated tax due for two quarters; provided, however, that the total amount of bond, cash or securities required of a special fuel user shall never be less than five hundred dollars (\$500).

E. In the event the department determines that the amount of the existing bond, cash or securities is insufficient to ensure payment to New Mexico of the amount of the special fuel excise tax and penalties and interest for which a special fuel user is or may at any time become liable, the special fuel user, upon written demand from the department mailed to the last known address of the special fuel user as shown on the records of the department, shall file an additional bond, cash or securities in the manner, form and amount determined by the department to be necessary to secure at all times the payment by the special fuel user of all taxes, penalties and interest due pursuant to the Special Fuels Supplier Tax Act.

F. A surety on a bond furnished by a special fuel user as required by this section shall be released and discharged from all liability accruing on the bond after the expiration of ninety days from the date upon which the surety files with the department a written request to be released and discharged; provided, however, that the request shall not operate to release or discharge the surety from liability already accrued or that shall accrue before the expiration of the ninety-day period, unless a new bond is filed during the ninety-day period, in which case the previous bond may be canceled as of the effective date of the new bond. On receipt of notice of the request to cancel the bond due to filing of a new bond, the department shall promptly notify the special fuel user who furnished the bond that the special fuel user, on or before the expiration of the

ninety-day period, shall file with the department a new bond with a surety satisfactory to the department in the amount and form required in this section.

G. A special fuel user who is required to file a bond with or provide cash or securities to the department in accordance with this section and who is required by another state law to file another bond with or provide cash or securities to the department may elect to file a combined bond or provide cash or securities applicable to the provision of both this section and the other law, with the approval of the secretary. The amount of the combined bond, cash or securities shall be determined by the department, and the form of the combined bond shall be approved by the attorney general.

H. A special fuel user who is required to file a bond pursuant to the provisions of this section and who for the eight consecutive quarters preceding the date of request has not been delinquent filing reports or paying special fuel excise taxes pursuant to the Special Fuels Supplier Tax Act may request to be exempt from the requirement to file a bond beginning with the first day of the first quarter following the end of the eight-quarter period. If a special fuel user exempted pursuant to this subsection subsequently becomes delinquent, the department may terminate the exemption and require the filing of a bond in accordance with this section. If the department terminates the exemption, the termination shall not be effective any earlier than ten days after the date the department notifies the special fuel user in writing of the termination."

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Senate Bill 345, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 111**

### **AN ACT**

RELATING TO HEALTH COVERAGE; ELIMINATING THE WAITING PERIOD FOR THE SMALL EMPLOYER HEALTH CARE COVERAGE PROGRAM; RECONCILING MULTIPLE ENACTMENTS OF THE SAME SECTION OF LAW IN LAWS 2005.

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

### **Chapter 111 Section 1 Laws 2007**

Section 1. Section 10-7B-6.1 NMSA 1978 (being Laws 2005, Chapter 301, Section 4 and Laws 2005, Chapter 305, Section 4) is amended to read:

"10-7B-6.1. SMALL EMPLOYER HEALTH CARE COVERAGE.--

A. The director may enter into an agreement with a small employer to voluntarily purchase health care coverage offered pursuant to the Group Benefits Act for persons and dependents eligible through the small employer.

B. The director may enter into agreements with an association, cooperative or mutual alliance representing small employers to provide outreach and assistance for small employers to voluntarily purchase health care coverage offered pursuant to the Group Benefits Act for persons and dependents eligible through the small employer.

C. The director shall only permit voluntary purchase of health care coverage by small employers if the small employer has not offered health care coverage to persons and dependents eligible through a small employer for a period of at least twelve months prior to enrollment in the coverage offered pursuant to the Group Benefits Act; provided, however, that the waiting period in this subsection shall not apply to a person having nonprofit status that employs an average of fifty or fewer persons over a

twelve-month period.

D. A separate account shall be maintained for small employers that voluntarily elect to purchase health care coverage offered pursuant to the Group Benefits Act to provide separate accounting, payment and private funding of health care coverage for small employers. The funds in the small employers account shall be maintained separately in actuarially sound condition as evidenced by an annual written certification of a qualified actuary, including verification that the premiums charged are actuarially sound in relation to the benefits provided. This certification shall be filed

with the superintendent of insurance."

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Senate Bill 428

Approved March 30, 2007

## **LAWS 2007, CHAPTER 112**

AN ACT

RELATING TO WORKERS' COMPENSATION; REVISING REPORTING REQUIREMENTS FOR SELF-INSURED GROUPS; AMENDING THE GROUP SELF-INSURANCE ACT.

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

**Chapter 112 Section 1 Laws 2007**

Section 1. Section 52-6-5 NMSA 1978 (being Laws 1986, Chapter 22, Section 79, as amended) is amended to read:

"52-6-5. INITIAL APPROVAL AND CONTINUED APPROVAL TO ACT AS A GROUP--QUALIFICATIONS.--

A. A proposed group shall file with the director an application for a certificate of approval accompanied by a nonrefundable filing fee in an amount established by the director. The application shall include the group's name, the location of its principal office, the date of organization, the name and address of each member and such other information as the director may reasonably require, together with the following:

- (1) proof of compliance with the provisions of Subsection B of this section;
- (2) a copy of the articles of association, if any;
- (3) a copy of agreements with the administrator and with any service company;
- (4) a copy of the bylaws of the proposed group;
- (5) a copy of the agreement between the group and each member securing the payment of workers' compensation and occupational disease disablement benefits, which shall include provision for payment of assessments as provided for in Section 52-6-20 NMSA 1978;
- (6) designation of the initial board of trustees and administrator;
- (7) the address in this state where the books and records of the group will be maintained at all times;
- (8) a pro-forma financial statement on a form acceptable to the director showing the financial ability of the group to pay the workers' compensation and occupational disease disablement obligations of its members; and
- (9) proof of payment to the group by each member of not less than twenty-five percent of that member's first-year estimated annual net premium on a date approved by the director. Each payment shall be considered to be part of the first-year premium payment of each member if the proposed group is granted a certificate of approval.

B. To obtain and to maintain its certificate of approval, a group shall comply with the following requirements as well as any other requirements established by law or regulation not inconsistent with the following:

(1) a combined net worth of all members of a group of private employers of three million dollars (\$3,000,000) or greater, as determined by the director; provided that if a group's annual financial statement for the prior calendar year shows that at the end of that year the group had a surplus of at least one-third of its claim reserves and not less than five million dollars (\$5,000,000), then for the current calendar year, the group shall not be required to provide the director with evidence of the net worth of all of the group's members;

(2) security in a form and amount prescribed by the director, which shall be provided by either a surety bond, security deposit or financial security endorsement or any combination thereof. If a surety bond is used to meet the security requirement, it shall be issued by a corporate surety company authorized to transact business in this state. If a security deposit is used to meet the security requirement, securities shall be limited to bonds or other evidences of indebtedness issued, assumed or guaranteed by the United States or by an agency or instrumentality thereof; certificates of deposit in a federally insured bank; shares or savings deposits in a federally insured savings and loan association or credit union; or any bond or security issued by a state of the United States and backed by the full faith and credit of the state. Any such securities shall be deposited with the director and assigned to and made negotiable by the director pursuant to a trust document acceptable to the director. Interest accruing on a negotiable security so deposited shall be collected and transmitted to the depositor, provided the depositor is not in default. A financial security endorsement, issued as part of an acceptable excess insurance contract, may be used to meet all or part of the security requirement. The bond, security deposit or financial security endorsement shall be for the benefit of the state solely to pay claims and associated expenses and payable upon the failure of the group to pay workers' compensation or occupational disease disablement benefits it is legally obligated to pay. The director may establish and adjust requirements of the amount of security based on differences among groups in their size, types of local government services provided by members of the group, years in existence and other relevant factors; provided that the director shall not require an amount lower than one hundred thousand dollars (\$100,000) for any group during its first year of operation. Subsequent to the first year of operation, the director may waive the requirements of this paragraph;

(3) specific and aggregate excess insurance in a form, in an amount and by an insurance company acceptable to the director. The director may establish minimum requirements for the amount of specific and aggregate excess insurance based on differences among groups in their size, types of employment, years in existence and other relevant factors and may permit a group to meet this requirement by placing in a designated depository securities of the type referred to in Paragraph (2) of this subsection;

(4) an estimated annual standard premium of at least two hundred fifty thousand dollars (\$250,000) during a group's first year of operation. Thereafter, the annual standard premium shall be at least five hundred thousand dollars (\$500,000);

(5) an indemnity agreement jointly and severally binding the group and each member of the group to meet the workers' compensation and occupational disease disablement obligations of each member. The indemnity agreement shall be in a form prescribed by the director and shall include minimum uniform substantive provisions prescribed by the director. Subject to the director's approval, a group may add other provisions needed because of its particular circumstances. The requirements of this paragraph shall only apply to private employers;

(6) a fidelity bond for the administrator in a form and amount prescribed by the director; and

(7) a fidelity bond for the service company in a form and amount prescribed by the director. The director may also require the service company providing claim services to furnish a performance bond in a form and amount prescribed by the director.

C. A group shall notify the director of any change in the information required to be filed under Subsection A of this section or in the manner of its compliance with Subsection B of this section no later than thirty days after that change.

D. The director shall evaluate the information provided by the application required to be filed under Subsection A of this section to assure that no gaps in funding exist and that funds necessary to pay workers' compensation and occupational disease disablement benefits will be available on a timely basis.

E. The director shall act upon a completed application for a certificate of approval within sixty days. If, because of the number of applications, the director is unable to act upon an application within that period, the director shall have an additional sixty days to so act.

F. The director shall issue to the group a certificate of approval upon finding that the proposed group has met all requirements, or the director shall issue an order refusing the certificate, setting forth reasons for refusal, upon finding that the proposed group does not meet all requirements.

G. Each group shall be deemed to have appointed the director as its attorney to receive service of legal process issued against it in this state. The appointment shall be irrevocable, shall bind any successor in interest and shall remain in effect as long as there is in this state any obligation or liability of the group for workers' compensation or occupational disease disablement benefits."

## **Chapter 112 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Corporations and Transportation

Committee Substitute for Senate Bill 490

Approved March 30, 2007

## **LAWS 2007, CHAPTER 113**

AN ACT

RELATING TO HIGHER EDUCATION; ENSURING THAT THE MILITARY IS TREATED AS EQUAL TO ANY OTHER RECRUITER PERMITTED TO RECRUIT ON-CAMPUS IN NEW MEXICO.

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

### **Chapter 113 Section 1 Laws 2007**

Section 1. A new section of Chapter 21 NMSA 1978 is enacted to read:

"MILITARY ACCESS TO A POST-SECONDARY EDUCATIONAL INSTITUTION.--A public post-secondary educational institution shall provide on a mutually acceptable schedule on-campus recruitment opportunities and facilities to a branch or service of the United States military to the same degree that it provides such opportunities and facilities to members of the public."

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Senate Bill 566, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 114**

AN ACT

RELATING TO HEALTH; ESTABLISHING A TASK FORCE TO DESIGN CULTURAL COMPETENCE EDUCATION REQUIREMENTS IN CERTAIN HEALTH EDUCATION PROGRAMS.

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

### **Chapter 114 Section 1 Laws 2007**

Section 1. TEMPORARY PROVISION -- HEALTH EDUCATION CULTURAL  
COMPETENCE TASK FORCE -- HIGHER EDUCATION DEPARTMENT --  
APPOINTMENT -- DUTIES -- REPORT.--

A. The secretary of higher education shall appoint a task force on cultural competence composed of health curricula specialists from two- and four-year public post-secondary educational institutions; health professionals; and representatives of the New Mexico health policy commission, the department of health, the Indian affairs department and the office on African American affairs. Members shall be appointed with due regard for geographic distribution and cultural and health-professional diversity.

B. The task force shall study and make recommendations on specific cultural competence curricula for each health-related education field offered in New Mexico's public post-secondary educational institutions. The curricula shall ensure that students are provided knowledge of cultural awareness and competence in their respective health service field, including:

- (1) cross-cultural communication;
- (2) culturally and linguistically appropriate health policy considerations;
- (3) exploration of health beliefs and explanatory models;
- (4) culturally competent health care delivery;
- (5) health disparities, privilege and equity factors in the health system; and
- (6) culturally and linguistically competent care supported by policy, administration and practice.

C. The curricula developed by the task force shall be designed to be offered electronically and through various distance-education models and media so as to minimize duplication and expense for students and educational institutions.

D. The task force shall review its findings and recommendations with the legislative health and human services committee by November 2007. The task force shall make its final report to the governor, the legislature and the presidents of the public post-secondary educational institutions by December 15, 2007.

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Senate Education Committee Substitute

for Senate Bill 600, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 115**

AN ACT

RELATING TO LICENSING; RENAMING AND REVISING THE PRIVATE INVESTIGATORS AND POLYGRAPHERS ACT; IDENTIFYING REGULATED PERSONS; CREATING THE PRIVATE INVESTIGATIONS ADVISORY BOARD; CHANGING THE NAME OF THE PRIVATE INVESTIGATOR AND POLYGRAPHER FUND; PROVIDING PENALTIES; PROVIDING FEE LIMITATIONS; PROVIDING FOR A TRANSITION PERIOD; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

### **Chapter 115 Section 1 Laws 2007**

Section 1. Section 61-27A-1 NMSA 1978 (being Laws 1993, Chapter 212, Section 1, as amended) is amended to read:

"61-27A-1. SHORT TITLE.--Chapter 61, Article 27A NMSA 1978 may be cited as the "Private Investigations Act"."

### **Chapter 115 Section 2 Laws 2007**

Section 2. Section 61-27A-2 NMSA 1978 (being Laws 1993, Chapter 212, Section 2, as amended) is amended to read:

"61-27A-2. DEFINITIONS.--As used in the Private Investigations Act:

A. "armored car company" means a company that knowingly and willingly transports money and other negotiables for a fee or other remuneration;

B. "bodyguard" means an individual who physically performs the mission of personal security for another individual;

C. "branch office" means an office of a private investigation company or a private patrol company physically located in New Mexico and managed, controlled or directed by a private investigations manager or private patrol operations manager;

D. "client" means an individual or legal entity having a contract that authorizes services to be provided in return for financial or other consideration;

E. "conviction" means any final adjudication of guilty, whether pursuant to a plea of guilty or nolo contendere or otherwise and whether or not the sentence is deferred or suspended;

F. "department" means the regulation and licensing department;

G. "individual" means a single human being;

H. "legal business entity" means a sole proprietorship, corporation, partnership, limited liability company, limited liability partnership or other entity formed for business purposes;

I. "licensee" means a person licensed pursuant to the Private Investigations Act;

J. "polygraph examiner" means an individual licensed by the department to engage in the practice of polygraphy;

K. "polygraphy" means the process of employing an instrument designed to graphically record simultaneously the physiological changes in human respiration, cardiovascular activity, galvanic skin resistance or reflex for the purpose of lie detection and includes the reading and interpretation of polygraphic records and results or any other device used to measure truthfulness;

L. "private investigation company" means a legal business entity that provides private investigation services, the location of which may be within or outside of the state, provided that the private investigation services are performed within New Mexico;

M. "private investigator" means an individual who is licensed by the department to engage in business or who accepts employment to conduct an investigation pursuant to the Private Investigations Act to obtain information regarding:

(1) crime or wrongs done or threatened against the United States or any state or territory of the United States;

(2) a person;

(3) the location, disposition or recovery of lost or stolen property;

(4) the cause or responsibility for fires, losses, accidents or damage or injury to persons or properties;

(5) the securing of evidence to be used before a court, administrative tribunal, board or investigating committee or for a law enforcement officer; or

(6) the scene of a motor vehicle accident or evidence related to a motor vehicle accident;

N. "private investigations employee" means an individual who is registered by the department to work under the direct control and supervision of a private investigator for a private investigation company;

O. "private investigations manager" means an individual who:

(1) is licensed as a private investigator and is issued a license by the department as a private investigations manager;

(2) directs, controls or manages a private investigation company for the owner of the company; and

(3) is assigned to and operates from the private investigation company that the private investigations manager is licensed to manage or from a branch office of that private investigation company;

P. "private patrol company" means a legal business entity, the location of which may be within or outside of the state, including an independent or proprietary commercial organization that provides private patrol operator services that are performed in New Mexico and the activities of which include employment of licensed private patrol operators or security guards;

Q. "private patrol employee" means an individual who is registered by the department to work under the direct control and supervision of a private patrol operator for a private patrol company;

R. "private patrol operations manager" means an individual who:

(1) is licensed as a private patrol operator or registered as a level three security guard and is issued a license by the department as a private patrol operations manager;

(2) directs, controls or manages a private patrol company for the owner of the company; and

(3) is assigned to and operates from the private patrol company that the private patrol operations manager is licensed to manage or from a branch office of that private patrol company;

S. "private patrol operator" means an individual who is licensed by the department to:

(1) conduct uniformed or nonuniformed services as a watchman, security guard or patrolman to protect property and persons on or in the property;

(2) prevent the theft, unlawful taking, loss, embezzlement, misappropriation or concealment of goods, wares, merchandise, money, bonds, stocks, notes, documents, papers or property of any kind; or

(3) perform the services required of a security guard or security dog handler or provide security services for an armored car company;

T. "proprietary commercial organization" means an organization or division of an organization that provides full- or part-time security guard services solely for itself;

U. "registrant" means an individual registered as a private investigations employee, a private patrol operations employee or a security guard at any level;

V. "security dog handler" means an individual who patrols with dogs to detect illegal substances or explosives;

W. "security guard" means an individual who is registered to engage in uniformed or nonuniformed services under the direct control and supervision of a licensed private patrol operator or a private patrol operations manager to perform such security missions as watchman, fixed post guard, dog handler, patrolman or other person to protect property or prevent thefts; and

X. "special event" means a parade or other public or private event of short duration requiring security."

## **Chapter 115 Section 3 Laws 2007**

Section 3. Section 61-27A-3 NMSA 1978 (being Laws 1993, Chapter 212, Section 3) is amended to read:

"61-27A-3. LICENSE REQUIRED.--It is unlawful for an individual to:

A. act as a private investigator, private patrol operator, security guard, private investigations employee, private investigations manager or private patrol operations manager or to make any representation as being a licensee or registrant unless the individual is licensed by the department pursuant to the Private Investigations Act;

B. render physical protection for remuneration as a bodyguard unless the individual is licensed as a private investigator or a private patrol operator;

C. continue to act as a private investigator, private patrol operator, security guard, private investigations employee, private investigations manager or private patrol operations manager if the individual's license issued pursuant to the Private Investigations Act has expired;

D. falsely represent that the individual is employed by a licensee; or

E. practice polygraphy for any remuneration without a license issued by the department in accordance with the Private Investigations Act."

## **Chapter 115 Section 4 Laws 2007**

Section 4. Section 61-27A-4 NMSA 1978 (being Laws 1993, Chapter 212, Section 4) is amended to read:

"61-27A-4. PERSONS EXEMPTED.--

A. As used in this section, "temporary" means a period of time not to exceed the duration of one private event or one school or nonprofit organization event, as described in Paragraphs (2) and (3) of Subsection B of this section.

B. Investigations Act does not apply to:

(1) an individual employed exclusively and regularly by one employer in connection with the affairs of that employer, provided that the individual patrols or provides security only on the premises of the employer as limited by the employer;

(2) an individual employed exclusively to provide temporary security at a private event that is not open to the public;

(3) individuals providing temporary security at athletic or other youth events and where the events occur under the auspices of a public or private school or a nonprofit organization;

(4) an attorney licensed in New Mexico conducting private investigations while engaged in the practice of law;

(5) an officer or employee of the United States or this state or a political subdivision of the United States or this state while that officer or employee is engaged in the performance of the officer's or employee's official duties;

(6) a person engaged exclusively in the business of obtaining and furnishing information concerning the financial rating of persons;

(7) a charitable philanthropic society or association duly incorporated under the laws of this state that is organized and maintained for the public good and not for private profit;

(8) a licensed collection agency or an employee of the agency while acting within the scope of employment while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or the debtor's property;

(9) admitted insurers, adjusters, agents and insurance brokers licensed by the state performing duties in connection with insurance transactions by them; or

(10) an institution subject to the jurisdiction of the director of the financial institutions division of the department or the comptroller of currency of the United States."

## **Chapter 115 Section 5 Laws 2007**

Section 5. Section 61-27A-5 NMSA 1978 (being Laws 1993, Chapter 212, Section 5) is amended to read:

"61-27A-5. ADMINISTRATION OF ACT--RULES.--

A. The department shall enforce and administer the provisions of the Private Investigations Act.

B. The department shall keep a record of each individual licensee.

C. The department shall adopt and enforce rules necessary to carry out the provisions of the Private Investigations Act, including establishing professional ethical standards.

D. The department shall adopt rules regarding:

(1) licensing private investigators, private investigations managers, private investigation companies, private patrol operators, private patrol operations managers, private patrol employees and polygraph examiners;

(2) registering private investigations employees, security guards and private patrol employees;

(3) establishing minimum training and educational standards for licensure and registration;

(4) establishing continuing education requirements;

(5) establishing and operating a branch office;

(6) creating a policy on reciprocity with other states and territories of the United States;

(7) providing permits for security guards for special events; and

(8) conducting background investigations."

## **Chapter 115 Section 6 Laws 2007**

Section 6. A new section of the Private Investigations Act, Section 61-27A-5.1 NMSA 1978, is enacted to read:

"61-27A-5.1. PRIVATE INVESTIGATIONS ADVISORY BOARD -- CREATED -- MEMBERS.--

A. The "private investigations advisory board" is created.

B. The superintendent of regulation and licensing shall appoint members to the advisory board to assist in the conduct of the examination process for licensees and registrants and to assist the department in other manners as requested by the superintendent or provided for in rules of the department.

C. The advisory board members shall consist of at least the following:

- (1) two private investigators;
- (2) one private patrol operator;
- (3) one polygraph examiner; and
- (4) one member of the public.

D. Members of the advisory board shall be reimbursed pursuant to the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance for each day spent in the discharge of their duties.

E. The public member of the advisory board or the public member's spouse shall not:

- (1) have been licensed pursuant to the Private Investigations Act, the Private Investigators and Polygraphers Act or any prior similar statutory provisions; or
- (2) have a direct or indirect financial interest in a private investigation company, private patrol company, polygraph business or a related business."

## **Chapter 115 Section 7 Laws 2007**

Section 7. Section 61-27A-6 NMSA 1978 (being Laws 1993, Chapter 212, Section 6, as amended) is amended to read:

"61-27A-6. REQUIREMENTS FOR LICENSURE.--

A. The department shall issue a license as a private investigator to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant has met all requirements set forth by the department in rule, including that the applicant:

(1) is at least twenty-one years of age;

(2) is of good moral character;

(3) has successfully passed an examination as required by department rule;

(4) has not been convicted of a felony offense, an offense involving dishonesty or an offense involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards as defined by the department; and

(5) has at least three years' experience that has been acquired within the five years preceding the filing of the application with the department of actual work performed in:

(a) investigation for the purpose of obtaining information with reference to a crime or wrongs done or threatened against the United States;

(b) investigation of persons;

(c) the location, disposition or recovery of lost or stolen property;

(d) the cause or responsibility for fire, losses, motor vehicle or other accidents or damage or injury to persons or property; or

(e) securing evidence to be used before a court, administrative tribunal, board or investigating committee or for a law enforcement officer.

B. Years of qualifying experience and the precise nature of that experience shall be substantiated by written certification from employers and shall be subject to independent verification by the department as it deems warranted. The burden of proving necessary experience is on the applicant."

## **Chapter 115 Section 8 Laws 2007**

Section 8. A new section of the Private Investigations Act, Section 61-27A-6.1 NMSA 1978, is enacted to read:

"61-27A-6.1. PRIVATE INVESTIGATION COMPANY -- REQUIREMENTS FOR LICENSURE.--

A. The department shall issue a license for a private investigation company to a person that files a completed application accompanied by the required fees and that submits satisfactory evidence that the applicant:

(1) if an individual, is of good moral character; or if a legal business entity, the owners, officers or directors of the entity are of good moral character;

(2) if an individual, has not been convicted of a felony offense, an offense involving dishonesty, an offense involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards; or if a legal business entity, the owners, officers or directors of the entity, either singly or collectively, have not been convicted of a felony offense or an offense involving intentional violent acts or the illegal use or possession of deadly weapons and have not been found to have violated professional ethical standards;

(3) maintains a surety bond in the amount of ten thousand dollars (\$10,000); however, private investigators who provide personal protection or bodyguard services shall maintain general liability insurance as specified in the Private Investigations Act in lieu of the surety bond required by the provisions of this paragraph;

(4) has an owner or a licensed private investigations manager who is licensed as a private investigator and who manages the daily operations of the private investigation company;

(5) maintains a physical location in New Mexico where records are maintained and made available for department inspection;

(6) maintains a New Mexico registered agent if the applicant is a private investigation company located outside of New Mexico; and

(7) meets all other requirements set forth in the rules of the department.

B. The owner or the chief executive officer of a private investigation company that provides personal protection or bodyguard services shall maintain a general liability certificate of insurance in an amount required by the department. The department shall suspend the license issued pursuant to this section of a private investigation company that fails to maintain an effective general liability certificate of insurance as required. The department shall not reinstate the license of a private investigation company that has had its license suspended pursuant to this subsection until an application is submitted to the department with the necessary fees and a copy of the private investigation company's general liability certificate of insurance in effect. The department may deny an application for reinstatement of a private investigation company's license, notwithstanding the applicant's compliance with this subsection for:

(1) a reason that would justify a denial to issue a new private investigation company license or that would be cause for a suspension or revocation of a private investigation company's license; or

(2) the performance by the applicant of an act requiring a license issued pursuant to the Private Investigations Act while the applicant's license is under suspension for failure to maintain the applicant's general liability certificate of insurance in effect."

## **Chapter 115 Section 9 Laws 2007**

Section 9. A new section of the Private Investigations Act, Section 61-27A-6.2 NMSA 1978, is enacted to read:

"61-27A-6.2. PRIVATE INVESTIGATIONS MANAGER -- REQUIREMENTS FOR LICENSURE -- NOTIFICATION OF DEPARTMENT IN EVENT OF TERMINATION OF EMPLOYMENT.--

A. The department shall issue a license for a private investigations manager to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) possesses a current license in good standing as a private investigator;

(2) has successfully passed an examination required by department rules;

(3) is employed by the private investigation company that the applicant is being licensed to manage; and

(4) meets other requirements set forth in the rules of the department.

B. A private investigations manager who ceases to be employed by the private investigation company that the manager is licensed to manage, before leaving the company, shall surrender the private investigations manager's license to the owner, officer or director who is required to temporarily take over the management of the private investigation company. The owner, officer or director who temporarily takes over managing the private investigation company within thirty days of the termination from employment of the private investigations manager shall:

(1) notify the department of the termination of the employment of the private investigations manager;

(2) submit the surrendered license; and

(3) submit an application to the department naming a new private investigations manager, who shall not begin to perform the duties of a private

investigations manager until and unless the department grants the applicant a private investigations manager's license.

C. Failure to notify the department within thirty days of the private investigations manager's termination from employment subjects the license of the private investigation company to suspension or revocation by the department.

D. Reinstatement of the private investigation company's license may occur only upon the filing of an application for reinstatement and payment of the reinstatement fee."

## **Chapter 115 Section 10 Laws 2007**

Section 10. A new section of the Private Investigations Act, Section 61-27A-6.3 NMSA 1978, is enacted to read:

### **"61-27A-6.3. PRIVATE PATROL OPERATOR--REQUIREMENTS FOR LICENSURE.--**

A. The department shall issue a license for a private patrol operator to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) is at least twenty-one years of age;

(2) is of good moral character;

(3) has successfully passed an examination as required by department rules;

(4) has not been convicted of a felony offense, an offense involving dishonesty, an offense involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards;

(5) has at least three years' experience of actual work performed as a security guard or an equivalent position, one year of which shall have been in a supervisory capacity. The experience shall have been acquired within five years preceding the filing of the application with the department. Years of qualifying experience and the precise nature of that experience shall be substantiated by written certification from the applicant's employers and shall be subject to independent verification by the department as it determines is warranted. The burden of proving necessary experience is on the applicant;

(6) is firearm certified, if the position will require being armed with a firearm; and

(7) meets other requirements set forth in rules of the department.

B. A private patrol operator may not investigate acts except those that are incidental to a theft, embezzlement, loss, misappropriation or concealment of property or other item that the private patrol operator has been engaged or hired to protect, guard or watch."

## **Chapter 115 Section 11 Laws 2007**

Section 11. A new section of the Private Investigations Act, Section 61-27A-6.4 NMSA 1978, is enacted to read:

### **"61-27A-6.4. PRIVATE PATROL COMPANY--REQUIREMENTS FOR LICENSURE.--**

A. The department shall issue a license for a private patrol company to a person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) if an individual, is of good moral character; or if a legal business entity, the owners, officers or directors of the entity are of good moral character;

(2) if an individual, has not been convicted of a felony offense, an offense involving dishonesty, an offense involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards, or if a legal business entity, the owners, officers or directors of the entity, either singly or collectively, have not been convicted of a felony offense, an offense involving dishonesty or an offense involving an intentional violent act or the illegal use or possession of a deadly weapon and have not been found to have violated professional ethical standards;

(3) has an owner or a licensed private patrol operations manager who manages the daily operations of the private patrol company;

(4) maintains a physical location in New Mexico where records are maintained and made available for department inspection;

(5) maintains a New Mexico registered agent if the applicant is a private patrol company located outside of New Mexico; and

(6) meets all other requirements set forth in the rules of the department.

B. The owner or the chief executive officer of a private patrol company shall maintain a general liability certificate of insurance in an amount required by the department. The department shall suspend the license issued pursuant to this section of a private patrol company that fails to maintain an effective general liability certificate of

insurance as required. The department shall not reinstate the license of a private patrol company that has had its license suspended pursuant to this subsection until an application is submitted to the department with the necessary fees and a copy of the private patrol company's general liability certificate of insurance newly in effect. The department may deny an application for reinstatement of a private patrol company's license, notwithstanding the applicant's compliance with this subsection for:

(1) a reason that would justify a denial to issue a new private patrol company license or that would be cause for a suspension or revocation of a private patrol company's license; or

(2) the performance by the applicant of an act requiring a license issued pursuant to the Private Investigations Act while the applicant's license is under suspension for failure to maintain the applicant's general liability certificate of insurance in effect."

## **Chapter 115 Section 12 Laws 2007**

Section 12. A new section of the Private Investigations Act, Section 61-27A-6.5 NMSA 1978, is enacted to read:

"61-27A-6.5. PRIVATE PATROL OPERATIONS MANAGER--REQUIREMENT FOR LICENSURE--NOTIFICATION OF DEPARTMENT IN EVENT OF TERMINATION OF EMPLOYMENT.--

A. The department shall issue a license for a private patrol operations manager to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) possesses a current license in good standing as a private patrol operator or a registration as a level three security guard;

(2) has successfully passed an examination required by department rule;

(3) is employed by the private patrol company that the applicant is being licensed to manage; and

(4) meets other requirements set forth in the rules of the department.

B. A private patrol operations manager who ceases to be employed by the private patrol company that the manager is licensed to manage, before leaving the company, shall surrender the private patrol operations manager's license to the owner, officer or director who is required to temporarily take over the management of the private patrol company. The owner, officer or director who temporarily takes over managing the private patrol company within thirty days of the termination from employment of the private patrol operations manager shall:

(1) notify the department of the termination of the employment of the private patrol operations manager;

(2) submit the surrendered license; and

(3) submit an application to the department naming a new private patrol operations manager, who shall not begin to perform the duties of a private patrol operations manager until the department grants the applicant a private patrol operations manager's license.

C. Failure to notify the department within thirty days of the private patrol operations manager's termination from employment subjects the license of the private patrol company to suspension or revocation by the department.

D. Reinstatement of the private patrol company's license may occur only upon the filing of an application for reinstatement and payment of the reinstatement fee."

## **Chapter 115 Section 13 Laws 2007**

Section 13. A new section of the Private Investigations Act, Section 61-27A-6.6 NMSA 1978, is enacted to read:

"61-27A-6.6. POLYGRAPH EXAMINER.--The department shall issue a license as a polygraph examiner to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

A. is at least eighteen years of age;

B. is of good moral character;

C. possesses a high school diploma or its equivalent;

D. has not been convicted of a felony involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards;

E. has graduated from an accredited polygraph examiners course approved by the department;

F. has:

(1) completed a probationary operational competency period and passed an examination of ability approved by the department to practice polygraphy; or

(2) submitted proof of holding, for a minimum of two years immediately preceding the date of application, a current license to practice polygraphy in another jurisdiction whose standards are equal to or greater than those in New Mexico; and

G. meets other requirements set forth in the rules of the department."

## **Chapter 115 Section 14 Laws 2007**

Section 14. A new section of the Private Investigations Act, Section 61-27A-6.7 NMSA 1978, is enacted to read:

"61-27A-6.7. PRIVATE INVESTIGATIONS EMPLOYEE -- REGISTRATION -- REQUIREMENTS.--

A. On or after July 1, 2007, every individual who seeks employment or is currently employed as a private investigations employee or who provides services on a contract basis to a private investigation company shall file an application for registration as a private investigations employee with the department.

B. The department shall issue a registration for a private investigations employee to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) is at least twenty-one years of age;

(2) is of good moral character;

(3) possesses a high school diploma or its equivalent;

(4) has successfully completed an examination as required by department rule;

(5) has not been convicted of a felony involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards;

(6) shall be employed by, or shall contract with a private investigation company to provide investigation services for, a private investigation company, under the direct control and supervision of a private investigator; and

(7) meets other requirements set forth in rules of the department.

C. If the contract or employment of a private investigations employee with a private investigation company terminates for any reason, the registration of the individual as a private investigations employee immediately terminates. The private

investigations employee shall turn over the employee's registration to the private investigation company upon ceasing employment with that company.

D. A private investigation company shall notify the department within thirty days from the date of termination of employment of a private investigations employee of the employment termination and return the employee's registration to the department."

## **Chapter 115 Section 15 Laws 2007**

Section 15. A new section of the Private Investigations Act, Section 61-27A-6.8 NMSA 1978, is enacted to read:

"61-27A-6.8. SECURITY GUARD -- LEVELS OF REGISTRATION.--

A. A security guard shall be registered at one of the three levels enumerated in this section that are based on experience, age and other qualifications of the registrant:

(1) level one is the entry level registration for security guards who will be working in a position not requiring the registrant to carry arms;

(2) level two is the intermediate level registration for security guards who are required to be armed but not with firearms; and

(3) level three is the advanced level registration for security guards who may be required to be armed with a firearm.

B. Each security guard shall receive a card issued by the department in the security guard's name with a definite expiration date that shall be carried by the security guard at all times when the security guard is performing duties that require the security guard to be registered pursuant to the provisions of this section. A security guard is not required to obtain a new card each time the security guard changes employment."

## **Chapter 115 Section 16 Laws 2007**

Section 16. A new section of the Private Investigations Act, Section 61-27A-6.9 NMSA 1978, is enacted to read:

"61-27A-6.9. SECURITY GUARD--LEVEL ONE--REGISTRATION--REQUIREMENTS.--

A. On or after July 1, 2007, every individual seeking employment or employed as a level one security guard shall file an application for registration with the department.

B. The department shall issue a registration for a level one security guard to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

- (1) is at least eighteen years of age;
- (2) is of good moral character;
- (3) has successfully completed an examination as required by department rule;
- (4) has not been convicted of a felony or an offense involving dishonesty, an offense involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards;
- (5) has completed a curriculum approved in department rule consisting of level one security guard training prior to being placed on a guard post for the first time as a level one security guard; that training may be provided by:
  - (a) a public educational institution in New Mexico or an educational institution licensed by the higher education department pursuant to the Post-Secondary Educational Institution Act;
  - (b) an in-house training program provided by a licensed private patrol company using a curriculum approved by the department; or
  - (c) any other department-approved educational institution using a curriculum approved by the department and complying with department standards set forth in department rules;
- (6) is employed by a private patrol company under the direct supervision of a licensed private patrol operator, a level three security guard or a private patrol operations manager; and
- (7) meets other requirements set forth in department rules.

C. A private patrol company shall notify the department within thirty days from the date of termination of a level one security guard of the employment termination."

## **Chapter 115 Section 17 Laws 2007**

Section 17. A new section of the Private Investigations Act, Section 61-27A-6.10 NMSA 1978, is enacted to read:

"61-27A-6.10. SECURITY GUARD--LEVEL TWO--REGISTRATION--REQUIREMENTS.--

A. On or after July 1, 2007, every individual seeking employment or employed as a level two security guard shall file an application for registration with the department.

B. The department shall issue a registration for a level two security guard to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) meets the requirements to be granted registration as a level one security guard and maintains in good standing a current registration as a level one security guard;

(2) has successfully completed an examination as required by department rule;

(3) possesses a high school diploma or its equivalent;

(4) in addition to the training required to be registered as a level one security guard, has completed a curriculum approved in department rule of level two security guard training prior to being placed on a guard post for the first time as a level two security guard; that training may be provided by:

(a) a public educational institution in New Mexico or an educational institution licensed by the higher education department pursuant to the Post-Secondary Educational Institution Act;

(b) an in-house training program provided by a licensed private patrol company using a curriculum approved by the department;

(c) the New Mexico law enforcement academy; or

(d) any other department-approved educational institution using a curriculum approved by the department and complying with department standards set forth in department rules;

(5) is employed by a private patrol company under the direct supervision of a licensed private patrol operator, a level three security guard or a private patrol operations manager; and

(6) meets other requirements set forth in department rules.

C. A private patrol company shall notify the department within thirty days from the date of termination of a level two security guard of the employment termination."

## **Chapter 115 Section 18 Laws 2007**

Section 18. A new section of the Private Investigations Act, Section 61-27A-6.11 NMSA 1978, is enacted to read:

"61-27A-6.11. SECURITY GUARD -- LEVEL THREE -- REGISTRATION -- REQUIREMENTS.--

A. On or after July 1, 2007, every individual seeking employment or employed as a level three security guard shall file an application for registration with the department.

B. The department shall issue a registration for a level three security guard to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) is at least twenty-one years of age;

(2) meets the requirements to be granted registration as a level two security guard and maintains in good standing a current registration as a level two security guard;

(3) has successfully completed an examination as required by department rule;

(4) possesses a high school diploma or its equivalent;

(5) in addition to the training required to be registered as a level two security guard and before the applicant shall be placed for the first time at a guard post as a level three security guard, has completed a curriculum approved by the department consisting of the minimum training for firearm certification prescribed by the department; provided that the additional training required by the department is provided by:

(a) a public educational institution in New Mexico or an educational institution licensed by the higher education department pursuant to the Post-Secondary Educational Institution Act;

(b) an in-house training program provided by a licensed private patrol company using a curriculum approved by the department;

(c) the New Mexico law enforcement academy; or

(d) any other department-approved educational institution using a curriculum approved by the department and complying with department standards set forth in department rules;

(6) is firearm certified by the New Mexico law enforcement academy or the national rifle association;

(7) is employed by a private patrol company under the direct supervision of a licensed private patrol operator, another level three security guard or a private patrol operations manager;

(8) beginning on July 1, 2009, has successfully passed a psychological evaluation as prescribed by the department to determine suitability for carrying firearms; and

(9) meets other requirements set forth in department rules.

C. A private patrol company shall notify the department within thirty days from the date of termination of a level two security guard of the employment termination."

## **Chapter 115 Section 19 Laws 2007**

Section 19. A new section of the Private Investigations Act, Section 61-27A-6.12 NMSA 1978, is enacted to read:

"61-27A-6.12. SPECIAL EVENT PERMIT--NONRESIDENT SECURITY GUARD PROCEDURE--QUALIFICATIONS--PROHIBITED USE.--

A. A private patrol company employing a nonresident security guard temporarily for a special event shall apply to the department for and may be issued a special event permit for each nonresident security guard qualified to be employed at the special event.

B. A special event permit is issued for a specific nonresident security guard and a specific special event and shall not be transferred to another security guard or used for a special event other than for the special event for which the permit is issued.

C. To be issued a special event permit, a private patrol company shall provide the department with a description of the special event, its location and the dates on which the temporary nonresident security guard will be employed to provide services at the special event. A special event permit shall bear the name of the private patrol company and contact information, the name of the nonresident security guard, the name of the special event for which it is issued, the dates of the special event and other pertinent information required by the department.

D. A special event permit shall be issued only to an individual who qualifies for a level one or higher security guard registration and who:

(1) is not a resident of New Mexico;

(2) does not hold a registration as a security guard in New Mexico; and

(3) meets other requirements specified by the department.

E. A special event permit requiring a security guard to carry a firearm shall only be issued to an individual who is qualified to be registered as a level three security guard.

F. It is a violation of the Private Investigations Act for a private patrol company to circumvent the registration process for permanent or long-term part-time employment of security guards through use of the provisions of this section."

## **Chapter 115 Section 20 Laws 2007**

Section 20. A new section of the Private Investigations Act, Section 61-27A-7.1 NMSA 1978, is enacted to read:

"61-27A-7.1. FEES.--

A. The department shall establish a schedule of reasonable fees as follows:

(1) private investigator fees:

(a) application fee, not to exceed one hundred dollars (\$100);

(b) initial private investigator's license fee or license renewal fee, not to exceed three hundred dollars (\$300); and

(c) initial private investigations manager license fee or license renewal fee, not to exceed two hundred dollars (\$200);

(2) private patrol operator fees:

(a) application fee, not to exceed one hundred dollars (\$100);

(b) initial private patrol operator's license fee or license renewal fee, not to exceed three hundred dollars (\$300); and

(c) initial private patrol operations manager license fee or license renewal fee, not to exceed two hundred dollars (\$200);

(3) security guard fees:

(a) level one or level two security guard registration fee or registration renewal fee, not to exceed fifty dollars (\$50.00); and

(b) level three security guard registration fee or registration renewal fee, not to exceed seventy-five dollars (\$75.00);

(4) polygraph examiners:

(a) application fee, not to exceed one hundred dollars (\$100);

(b) initial polygraph examiner's license fee or license renewal fee, not to exceed four hundred dollars (\$400); and

(c) examination fee, not to exceed one hundred dollars (\$100); and

(5) other fees applying to private investigators, private patrol operators and polygraph examiners:

(a) change in license fee, not to exceed two hundred dollars (\$200);

(b) late fee on license or registration renewals, not to exceed one hundred dollars (\$100);

(c) special event permit fee, not to exceed one hundred dollars (\$100); and

(d) special event license fee for a private patrol company, not to exceed fifty dollars (\$50.00).

B. Fees charged by the department shall not be increased prior to fiscal year 2009."

## **Chapter 115 Section 21 Laws 2007**

Section 21. A new section of the Private Investigations Act, Section 61-27A-8.1 NMSA 1978, is enacted to read:

"61-27A-8.1. LICENSE AND REGISTRATION RENEWAL.--

A. A license or registration granted pursuant to the provisions of the Private Investigations Act shall be renewed by the department annually unless the term of the license is set by the department in rule to be a longer period.

B. A licensee or registrant with an expired license or registration shall not perform an activity for which a license or registration is required pursuant to the Private Investigations Act until the license or registration has been renewed or reinstated.

C. The department may require proof of continuing education credits or other proof of competency as a requirement of renewal or reinstatement of a license or registration.

D. A license or registration issued to a person pursuant to the Private Investigations Act shall not be transferred or assigned."

## **Chapter 115 Section 22 Laws 2007**

Section 22. Section 61-27A-9 NMSA 1978 (being Laws 1993, Chapter 212, Section 9) is amended to read:

**"61-27A-9. DISPLAY OF LICENSE--NOTIFICATION OF CHANGES.--**

A. A license shall at all times be posted in a conspicuous place in the principal place of business in New Mexico of the licensee.

B. A copy of the registration of each registrant employed by a private investigation company or a private patrol company shall be maintained in the main New Mexico office of the company and in the branch office in which the registrant works.

C. A registration card issued by the department shall at all times be in the possession of and located on the person of a registrant when working.

D. A security guard shall wear the registration card on the outside of the guard's uniform so that the card is visible to others.

E. A licensee, including owners, officers or directors of a private investigation company or a private patrol company, or a registrant shall notify the department immediately in writing of a change in the mailing or contact address of the licensee or registrant.

F. Failure to notify the department within thirty days of changes required to be reported pursuant to this section or failure to carry or display a registration as required is grounds for suspension of a license or registration."

## **Chapter 115 Section 23 Laws 2007**

Section 23. A new section of the Private Investigations Act, Section 61-27A-10.1 NMSA 1978, is enacted to read:

**"61-27A-10.1. GENERAL OPERATIONS PROVISIONS OF COMPANIES --  
MANAGEMENT -- LIABILITY FOR EMPLOYEES' CONDUCT -- MAINTENANCE OF  
RECORDS REQUIRED -- REQUIRED AND PERMITTED ACTIVITIES -- ALLOWED  
CATEGORIES OF UNLICENSED EMPLOYEES.--**

A. An owner of a private investigation company providing services in New Mexico shall operate, direct, control and manage that company provided that the owner is licensed as a private investigator. An owner of a private investigation company who is not licensed as a private investigator shall employ a private investigator as a private investigations manager and shall turn over the operation, direction, control and management of the private investigation company to that manager.

B. An owner of a private patrol company providing services in New Mexico shall operate, direct, control and manage that company, provided that the owner is licensed

as a private patrol operator or registered as a level three security guard. An owner of a private patrol company who is not licensed as a private patrol operator or registered as a level three security guard shall employ a private patrol operations manager and shall turn over the operation, direction, control and management of the private patrol company to that manager.

C. A private investigation company or a private patrol company shall not conduct business under a fictitious name until the company has obtained the authorization for use of the name from the department. The department shall not authorize the use of a fictitious name that may generate public confusion with the name of a public officer or agency or the name of an existing private investigation company or private patrol company.

D. A private investigation company is liable for the conduct of the company's employees, including the conduct of its private investigations manager.

E. A private patrol company is liable for the conduct of the company's employees, including the conduct of its private patrol operations manager.

F. A private investigation company or a private patrol company shall maintain records of the qualifications, performance and training of all of its current and former employees as required by the department. The records are subject to inspection by the department upon reasonable notice to the owner or private investigations manager or private patrol operations manager.

G. Except as otherwise provided in this section, every employee of a licensed private investigation company or private patrol company shall be licensed or registered by the department as employees of the company with which the employee is employed; provided, however, that a licensee or registrant may work for more than one company concurrently.

H. A licensee or registrant shall notify the department in writing within thirty days of each change in the licensee's or registrant's employment by filing an amendment to the licensee's or registrant's application obtained from the department. If a licensee or registrant ceases to be employed by a private investigation company or a private patrol company, the licensee or registrant shall notify the department in writing within thirty days from the date the licensee or registrant ceases employment with that company.

I. A private investigation company or a private patrol company shall notify the department within thirty days of a change in ownership structure or, if a corporation, a change in the membership of the board of directors.

J. Employees of a private investigation company or a private patrol company who are engaged exclusively to perform stenographic, typing, word processing, secretarial, receptionist, accounting, bookkeeping, information technology or other business applications or support functions and who do not perform the work of a private

investigator, a private patrol operator or a security guard are not required to be licensed or registered pursuant to the Private Investigations Act.

K. An individual who is not licensed or qualified to be employed as a private investigations manager or a private patrol operations manager shall not be employed to perform the duties required of those managers."

## **Chapter 115 Section 24 Laws 2007**

Section 24. Section 61-27A-11 NMSA 1978 (being Laws 1993, Chapter 212, Section 11) is amended to read:

"61-27A-11. BOND REQUIRED.--

A. A private investigation company shall file with the department a surety bond in the amount of ten thousand dollars (\$10,000) executed by a surety company authorized to do business in this state.

B. The owner or the chief executive officer of a private investigation company that provides personal protection or bodyguard services or the owner or the chief executive officer of a private patrol company shall maintain a general liability certificate of insurance in an amount required by the department.

C. A surety bond in the amount of ten thousand dollars (\$10,000) or a general liability certificate of insurance executed and filed with the department pursuant to the Private Investigations Act shall remain in force until the surety company issuing the bond or the certificate has terminated future indemnity by notice to the department."

## **Chapter 115 Section 25 Laws 2007**

Section 25. Section 61-27A-12 NMSA 1978 (being Laws 1993, Chapter 212, Section 12) is amended to read:

"61-27A-12. PROHIBITED ACTS.--

A. A licensee or registrant may divulge to a law enforcement officer or district attorney, the attorney general or the attorney general's representatives information the licensee or registrant acquires concerning a criminal offense, but the licensee or registrant shall not divulge to any other person, except as the licensee or registrant is required by law, information acquired by the licensee or registrant except at the direction of the licensee's or registrant's employer or the client for whom the information was obtained.

B. No licensee or registrant shall knowingly make a false report to the licensee's or registrant's employer or the client for whom the information was being obtained.

C. No written report shall be submitted to a client except by the licensee, or a person authorized by the licensee, and the person submitting the report shall exercise diligence in ascertaining whether the facts and information of the report are true and correct.

D. No private investigator, private investigations manager or private investigations employee shall use a badge in connection with the official activities of the licensee's or employee's employment for a private investigation company.

E. No licensee or registrant shall use a title or wear a uniform, use an insignia, use an identification card or make a statement with the intent to give an impression that the licensee or registrant is connected in any way with the federal or state government or a political subdivision of either.

F. No private patrol operator licensee, private patrol operations manager or level three security guard shall use a badge except when engaged in guard or patrol work and while wearing a uniform.

G. No licensee or registrant shall appear as an assignee party in a proceeding involving a claim and delivery action to recover or possess property or action for foreclosing a chattel mortgage, mechanic's lien, materialman's lien or any other lien.

H. A polygraph examiner shall not ask questions during the course of a polygraph examination relative to sexual affairs of an examinee, the examinee's race, creed, religion or union affiliation or an activity not previously and specifically agreed to by written consent."

## **Chapter 115 Section 26 Laws 2007**

Section 26. Section 61-27A-13 NMSA 1978 (being Laws 1993, Chapter 212, Section 13) is amended to read:

"61-27A-13. DENIAL, SUSPENSION OR REVOCATION OF LICENSE OR REGISTRATION.--In accordance with procedures contained in the Uniform Licensing Act, the department may deny, suspend or revoke a license or registration held or applied for under the Private Investigations Act or reprimand or place on probation a licensee or registrant upon grounds that the licensee, registrant or applicant:

A. made a false statement or gave false information in connection with an application for a license or registration or renewal or reinstatement of a license or registration;

B. violated a provision of the Private Investigations Act;

C. violated a rule of the department adopted pursuant to the Private Investigations Act;

D. has been convicted of a felony or any crime involving dishonesty or illegally using, carrying or possessing a deadly weapon;

E. impersonated or permitted or aided and abetted an employee of a private investigation company or private patrol company to impersonate a law enforcement officer or employee of the United States or of a state or political subdivision of either;

F. committed or permitted an employee of a private investigation company or a private patrol company to commit an act while the license or registration of the person licensed or registered pursuant to the Private Investigations Act was expired that would be cause for the suspension or revocation of a license or registration or grounds for the denial of an application for a license or registration;

G. willfully failed or refused to render to a client services or a report as agreed between the parties, for which compensation has been paid or tendered in accordance with the agreement of the parties;

H. committed assault, battery or kidnapping or used force or violence on a person without justification;

I. knowingly violated or advised, encouraged or assisted the violation of a court order or injunction in the course of business of the licensee or registrant;

J. knowingly issued a worthless or otherwise fraudulent payroll check that is not redeemed within two days of denial of payment by a bank;

K. has been chronically or persistently inebriated or addicted to the illegal use of dangerous or narcotic drugs;

L. has been adjudged mentally incompetent or insane by regularly constituted authorities;

M. while unlicensed, committed or aided and abetted the commission of any act for which a license is required under the Private Investigations Act; or

N. has been found to have violated the requirements of a state or federal labor, tax or employee benefit law or rule."

## **Chapter 115 Section 27 Laws 2007**

Section 27. Section 61-27A-14 NMSA 1978 (being Laws 1993, Chapter 212, Section 14) is amended to read:

"61-27A-14. HEARING--PENALTIES.--

A. A person who is denied a license or registration or who has a license or registration suspended or revoked shall be entitled to a hearing before the department if within twenty days after the denial, suspension or revocation a request for a hearing is received by the department. The procedures of the Uniform Licensing Act shall be followed pertaining to the hearing to the extent that they do not conflict with the provisions of the Private Investigations Act.

B. In accordance with the provisions of the Uniform Licensing Act, and in addition to other penalties provided by law, the department may impose the following:

(1) for a violation of the Private Investigations Act, a civil penalty not to exceed one thousand dollars (\$1,000) for each violation; and

(2) against a person who is found by the department to be engaging in a practice regulated by the department without an appropriate license or registration, civil penalties not to exceed one thousand dollars (\$1,000)."

## **Chapter 115 Section 28 Laws 2007**

Section 28. Section 61-27A-16 NMSA 1978 (being Laws 1993, Chapter 212, Section 16) is amended to read:

"61-27A-16. LICENSE NOT TRANSFERABLE.--

A. A license or registration issued pursuant to the Private Investigations Act shall not be transferred or assigned.

B. The department shall adopt by rule procedures for changes in the name or management of a private investigation company or private patrol company. If the private investigation company or private patrol company fails to comply with the procedures established by department rule, the private investigation company or private patrol company shall be considered to be operating without a license."

## **Chapter 115 Section 29 Laws 2007**

Section 29. Section 61-27A-17 NMSA 1978 (being Laws 1993, Chapter 212, Section 17) is amended to read:

"61-27A-17. LOCAL REGULATIONS.--The provisions of the Private Investigations Act shall not prevent the local authorities of a city or county by ordinance and within the exercise of the police power of the city or county from imposing local ordinances upon a street patrol special officer or on a person licensed or registered pursuant to the Private Investigations Act if the ordinances are consistent with that act."

## **Chapter 115 Section 30 Laws 2007**

Section 30. Section 61-27A-18 NMSA 1978 (being Laws 1993, Chapter 212, Section 18) is amended to read:

"61-27A-18. FUND ESTABLISHED.--

A. The "private investigations fund" is created in the state treasury.

B. All license and registration fees received by the department pursuant to the Private Investigations Act shall be deposited in the fund and are appropriated to the department to be used for the administration and implementation of that act.

C. The state treasurer shall invest the fund as other state funds are invested, and all income derived from investment of the fund shall be credited to the fund.

D. All balances in the fund shall remain in the fund and shall not revert to the general fund.

E. The department shall administer the fund, and money in the fund shall be expended by warrant issued by the secretary of finance and administration on vouchers signed by the superintendent of regulation and licensing.

F. No more than five percent of the fund shall be used by the department for administration of the fund."

### **Chapter 115 Section 31 Laws 2007**

Section 31. A new section of the Private Investigations Act, Section 61-27A-19.1 NMSA 1978, is enacted to read:

"61-27A-19.1. FIREARMS.--A private investigator, a private patrol operator, a private investigations employee, a level three security guard or a private patrol operations employee may carry a firearm upon successful completion of the mandatory firearm training required by rules of the department."

### **Chapter 115 Section 32 Laws 2007**

Section 32. Section 61-27A-20 NMSA 1978 (being Laws 1993, Chapter 212, Section 20) is amended to read:

"61-27A-20. PENALTIES.--

A. A person who engages in a business regulated by the Private Investigations Act who fraudulently makes a representation as being a licensee or registrant is guilty of a misdemeanor and if convicted shall be sentenced pursuant Section 31-19-1 NMSA 1978.

B. An individual who fraudulently represents that the individual is employed by a licensee is guilty of a petty misdemeanor and if convicted shall be sentenced pursuant to Section 31-19-1 NMSA 1978.

C. A person who violates a mandatory requirement, as set forth by the department in rule, of the Private Investigations Act, is guilty of a petty misdemeanor except as provided in Subsection A of this section and if convicted shall be sentenced pursuant to Section 31-19-

1 NMSA 1978."

### **Chapter 115 Section 33 Laws 2007**

Section 33. A new section of the Private Investigations Act is enacted to read:

"RECIPROCITY.--

A. The department may enter into a reciprocity agreement with another state for the purpose of licensing or registering applicants to perform activities regulated by the Private Investigations Act.

B. An applicant from another state at the time of application for licensure or registration in New Mexico shall be licensed or registered in that other state to perform the services for which the applicant is seeking a New Mexico license or registration.

C. The department may develop rules that allow for reciprocity on a temporary or limited basis without requiring an applicant licensed or registered in another state subject to a reciprocity agreement to be licensed or registered in New Mexico; provided that the state of licensure or registration:

(1) has licensure or registration requirements that meet or exceed those of New Mexico;

(2) has no record of disciplinary action taken against the applicant in the last year; and

(3) can verify that the applicant has engaged in activities for at least one year in the state with reciprocity that are required to be licensed or registered pursuant to the Private Investigations Act."

### **Chapter 115 Section 34 Laws 2007**

Section 34. A new section of the Private Investigations Act is enacted to read:

"BACKGROUND INVESTIGATIONS.--

A. The department shall adopt rules that:

(1) are developed in conjunction with the department of public safety that require background investigations of all persons licensed or registered pursuant to the Private Investigations Act to determine if the person has a criminal history;

(2) require all applicants for licensure or registration to be fingerprinted on two fingerprint cards or electronically as required for submission to the federal bureau of investigation to conduct a national criminal history investigation and for submission to the department of public safety to conduct a state criminal history investigation;

(3) provide for an applicant to inspect or challenge the validity of the record developed by the background investigation if the applicant is denied a license or registration; and

(4) establish a fee for fingerprinting and conducting a background investigation for an applicant.

B. Arrest record information received from the federal bureau of investigation and department of public safety shall be privileged and shall not be disclosed to individuals not directly involved in the decision affecting the specific applicant or employee.

C. The applicant shall pay the cost of obtaining criminal history information from the federal bureau of investigation and the department of public safety.

D. Electronic live scans may be used for conducting criminal history investigations."

## **Chapter 115 Section 35 Laws 2007**

Section 35. A new section of the Private Investigations Act is enacted to read:

"TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The private investigations advisory board is terminated on July 1, 2011 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Private Investigations Act until July 1, 2012. Effective July 1, 2012, Chapter 61, Article 27A NMSA 1978 is repealed."

## **Chapter 115 Section 36 Laws 2007**

Section 36. TEMPORARY PROVISION--TRANSITION.--

A. A security guard, watchman, loss prevention officer or patrolman licensed pursuant to the Private Investigators and Polygraphers Act prior to July 1, 2007 shall apply for registration pursuant to the Private Investigations Act prior to October 31, 2007

to receive registration without meeting the examination or educational requirements of the Private Investigations Act.

B. Between July 1, 2007 and October 31, 2007, an individual shall be registered as a level three security guard without examination or further qualification by the regulation and licensing department if the individual:

(1) worked as a security guard, watchman, loss prevention officer or patrolman for the five years immediately preceding July 1, 2007 and was licensed by the regulation and licensing department to perform that work; and

(2) was authorized pursuant to the Private Investigators and Polygraphers Act prior to July 1, 2007 to carry a firearm in the course of the individual's employment.

C. A security guard, watchman, loss prevention officer or patrolman who is not qualified pursuant to Subsection B of this section to be registered as a level three security guard shall be registered by the regulation and licensing department as a level one security guard if the individual applies for registration pursuant to the Private Investigations Act between July 1, 2007 and October 31, 2007, except as provided in Subsection D of this section.

D. If the regulation and licensing department finds, upon application by a security guard, watchman, loss prevention officer or patrolman who is employed in that capacity prior to July 1, 2007, that the applicant has applied in a timely manner and presents exceptional circumstances, as determined by the regulation and licensing department, in which the applicant demonstrates cause for that applicant to be registered as a level two security guard, the department in its discretion may register the security guard applicant as a level two security guard without examination or further qualification.

E. A private investigator or private patrol operator holding a certificate of deposit or surety bond in the sum of two thousand dollars (\$2,000) shall be exempt from the bond provisions of the Private Investigations Act, provided that the private investigator's or private patrol operator's license remains current and the holder remains in good standing with the regulation and licensing department.

F. A rule adopted by the regulation and licensing department pursuant to the Private Investigators and Polygraphers Act shall remain in effect until the regulation and licensing department adopts rules to implement the Private Investigations Act.

G. The regulation and licensing department shall continue to register and license individuals pursuant to the Private Investigators and Polygraphers Act until

July 1, 2007, or, if rules are not adopted by the regulation and licensing department to implement the Private Investigations Act by July 1, 2007, until the regulation and licensing department adopts rules to implement the Private Investigations Act. However, rules shall be adopted and the regulation and licensing department shall begin to

license and register applicants pursuant to the Private Investigations Act no later than September 1, 2007.

H. Money in the private investigator and polygrapher fund is transferred on July 1, 2007 to the private investigations fund.

I. Except as provided in Subsections C and D of this section, a person licensed or registered pursuant to the Private Investigators and Polygraphers Act prior to July 1, 2007 shall be licensed or registered pursuant to the Private Investigations Act on or after July 1, 2007 at a level of licensure or registration equivalent to that level that the person held prior to July 1, 2007 without further training or examination; provided that the person:

(1) applies for licensure or registration pursuant to the Private Investigations Act no later than October 31, 2007;

(2) shall be subject to any disciplinary proceedings initiated prior to July 1, 2007 or disciplinary action resulting from the proceedings due to the licensee's or registrant's unethical conduct or actions or inactions taken in violation of the Private Investigators and Polygraphers Act; and

(3) remains otherwise eligible to be licensed or registered pursuant to the Private Investigations Act.

### **Chapter 115 Section 37 Laws 2007**

Section 37. REPEAL.--Sections 61-27A-7, 61-27A-8, 61-27A-10, 61-27A-19 and 61-27A-21 NMSA 1978 (being Laws 1993, Chapter 212, Sections 7, 8, 10 and 19 and Laws 2000, Chapter 4, Section 16, as amended) are repealed.

### **Chapter 115 Section 38 Laws 2007**

Section 38. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Public Affairs Committee

Substitute for Senate Bill 621, as amended,

with certificate of correction

Approved March 30, 2007

# LAWS 2007, CHAPTER 116

## AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING FOR ALTERNATIVE WAYS TO REGISTER OR RENEW THE REGISTRATION OF SCHOOL BUSES; SETTING FEES.

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

### Chapter 116 Section 1 Laws 2007

Section 1. A new section of the Motor Vehicle Code is enacted to read:

"SCHOOL BUS REGISTRATION--RENEWAL.--

A. A school district, another public entity or a school bus contractor may register a school bus that it owns on a permanent basis, without the requirement of renewal, at the time the school bus is initially registered with the department and issued a certificate of title or subsequent to initial registration at the next registration renewal date. The registrant shall pay the registration fee provided in Section 66-6-12 NMSA 1978. To implement this subsection, the department shall:

(1) promulgate a rule setting out the information and procedures the department may require to permanently register a school bus; and

(2) create a permanent registration validation sticker and permanent registration certificate for school buses registered pursuant to this subsection.

B. If a school district, another public entity or a school bus contractor does not register a school bus that it owns as provided in Subsection A of this section, it may renew the registration of two or more school buses it owns on a common date of its choosing on an annual basis, with the registration of those buses expiring and requiring renewal on that date. The fee for the registration of school buses is provided in Section 66-6-12 NMSA 1978. To implement this subsection the department shall:

(1) promulgate a rule setting out the information and procedures the department may require to achieve the registration renewal of two or more school buses on a common date; and

(2) prorate the fee for registration of school buses as necessary to achieve the common registration renewal date.

C. Nothing in this section shall prevent a school district or a school bus contractor from registering a school bus that it owns pursuant to another applicable provision of law."

## **Chapter 116 Section 2 Laws 2007**

Section 2. Section 66-6-12 NMSA 1978 (being Laws 1978, Chapter 35, Section 347, as amended) is amended to read:

"66-6-12. FEES FOR SCHOOL BUSES.--

A. Registration fees for school buses used solely for the purpose of transportation of school children and other school activities shall be seven dollars (\$7.00) a year, except that the fee for a school bus permanently registered pursuant to Subsection A of Section 1 of this 2007 act is:

(1) for a school bus initially registered at the time an original certificate of title is issued for that school bus, a one-time fee of one hundred forty dollars (\$140); or

(2) for a school bus permanently registered subsequent to the issuance of the original certificate of title for that school bus, a one-time fee of one hundred dollars (\$100).

B. The application for registration of a school bus shall be accompanied by the certificate of the director of transportation of the public education department stating that the bus is used solely and exclusively as a school bus."

## **Chapter 116 Section 3 Laws 2007**

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 648

Approved March 30, 2007

# **LAWS 2007, CHAPTER 117**

AN ACT

RELATING TO FINANCE; CREATING AN EXEMPTION FROM THE GOVERNMENTAL GROSS RECEIPTS TAX FOR UNIVERSITY RECEIPTS FROM THE IMPOSITION OF AN ATHLETIC FACILITY SURCHARGE; ENACTING THE UNIVERSITY ATHLETIC FACILITY FUNDING ACT; PERMITTING CERTAIN UNIVERSITIES TO ISSUE REVENUE BONDS; AUTHORIZING CERTAIN UNIVERSITIES TO IMPOSE A SURCHARGE ON REVENUES ARISING FROM

ACTIVITIES AT UNIVERSITY ATHLETIC FACILITIES; MAKING AN APPROPRIATION;  
DECLARING AN EMERGENCY.

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

### **Chapter 117 Section 1 Laws 2007**

Section 1. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"EXEMPTION--GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX--ATHLETIC FACILITY SURCHARGE.--Exempted from the gross receipts tax and from the governmental gross receipts tax are the receipts of a university from an athletic facility surcharge imposed pursuant to the University Athletic Facility Funding Act."

### **Chapter 117 Section 2 Laws 2007**

Section 2. SHORT TITLE.--Sections 2 through 11 of this act may be cited as the "University Athletic Facility Funding Act".

### **Chapter 117 Section 3 Laws 2007**

Section 3. DEFINITIONS.--As used in the University Athletic Facility Funding Act:

A. "athletic facility revenues" means rentals, receipts, fees or other charges imposed by and paid to a university for the rights to use, operate or manage a university athletic facility by any person;

B. "athletic facility surcharge" means a surcharge to be included in each vendor contract on tickets, parking, souvenirs, concessions, programs, advertising, merchandise, corporate suites or boxes, broadcast revenues and all other products or services sold at or related to a university athletic facility or related to activities occurring at a university athletic facility;

C. "board" means the board of regents of a university;

D. "bonds" means athletic facility revenue bonds issued by a university to pay for some or all of the costs of designing, purchasing, constructing, remodeling, rehabilitating, renovating, improving, equipping and furnishing a university athletic facility;

E. "president" means the president of a university or a person designated by the president of a university;

F. "university" means a four-year post-secondary educational institution confirmed by Article 12, Section 11 of the constitution of New Mexico and the main campus of which is located in a class A county;

G. "university athletic facility" means an indoor or outdoor athletic facility, including buildings and related improvements, primarily designed and intended for university sporting events, but also available for non-university sporting events and university and community cultural, educational and entertainment events;

H. "vendor" means every person, corporation, partnership or other entity, including a division or department of a university, providing products or services sold at or related to a university athletic facility; and

I. "vendor contract" means a written arrangement between a university and a vendor pursuant to which the vendor provides products or services sold at or related to the university athletic facility.

## **Chapter 117 Section 4 Laws 2007**

### **Section 4. ISSUANCE OF BONDS.--**

A. With the approval of the higher education department and the state board of finance, pursuant to a resolution of the board of regents, a university that has imposed an athletic facility surcharge may issue athletic facility revenue bonds to pay for some or all of the costs of designing, purchasing, constructing, remodeling, renovating, rehabilitating, improving, equipping or furnishing a university athletic facility that has a seating capacity of twelve thousand or more.

B. The bonds shall bear interest at a rate or rates as authorized in the Public Securities Act, and the first interest payment may be for any period authorized in the Public Securities Act.

C. The bonds shall be secured by athletic facility revenues and athletic facility surcharge receipts.

D. The university shall establish an "athletic facility bonding fund" for deposit of all athletic facility revenues and athletic facility surcharge proceeds. Money in the fund may be used to pay:

(1) payments of principal, interest or prior redemption premiums due in connection with, and any other charges pertaining to, the bonds, including payments into any sinking fund or reserve fund required by the bond resolution;

(2) costs of operating a university athletic facility during the life of the bonds, provided that no such costs shall be paid if there are current payments due pursuant to Paragraph (1) of this subsection;

(3) costs of constructing, renovating, equipping, maintaining or improving a university athletic facility, provided that no such costs shall be paid if there are current payments due pursuant to Paragraph (1) of this subsection; or

(4) costs of collecting or administering the athletic facility surcharge, provided that no such costs shall be paid if there are current payments due pursuant to Paragraph (1) of this subsection.

E. Bonds issued pursuant to the University Athletic Facility Funding Act shall be payable solely from the athletic facility bonding fund and do not create an obligation or indebtedness of the state within the meaning of any constitutional provision. A breach of any contractual obligation incurred pursuant to that act shall not impose a pecuniary liability or a charge upon the general credit or taxing power of the state, and the bonds are not general obligations for which the state's full faith and credit is pledged.

F. The state does hereby pledge that the athletic facility bonding fund shall be used only for the purposes specified in this section and pledged first to pay the debt service on the bonds. The state further pledges that any law authorizing the imposition of the athletic facility surcharge and the dedication of revenues to the fund shall not be amended or repealed or otherwise modified so as to impair the bonds to which the fund is dedicated as provided in this section. The university shall not repeal, amend or otherwise modify the bond resolution or the resolution imposing the athletic facility surcharge in such a manner that adversely affects or impairs the athletic facility surcharge or any bonds secured by a pledge of the athletic facility revenues and athletic facility surcharge receipts unless the bonds have been paid in full or provisions have been made for full payment.

## **Chapter 117 Section 5 Laws 2007**

Section 5. ATHLETIC FACILITY REVENUE BONDS--FULL AUTHORITY TO ISSUE--BONDS ARE LEGAL INVESTMENTS.--

A. The University Athletic Facility Bonding Act shall, without reference to any other act of the legislature, be full authority for the issuance and sale of athletic facility revenue bonds, which bonds shall have all the qualities of investment securities under the Uniform Commercial Code and shall not be invalid for any irregularity or defect or be contestable in the hands of bona fide purchasers or holders of the bonds for value.

B. Athletic facility revenue bonds are legal investments for any person or board charged with the investment of any public funds and are acceptable as security for any deposit of public money.

## **Chapter 117 Section 6 Laws 2007**

Section 6. BONDS TAX EXEMPT.--All athletic facility revenue bonds shall be exempt from taxation by the state or any of its political subdivisions.

## **Chapter 117 Section 7 Laws 2007**

Section 7. AUTHORIZATION OF SURCHARGE AND OTHER FEES-- USE OF PROCEEDS--TRANSFER.--

A. The board may establish by resolution an athletic facility surcharge of not less than five percent but not to exceed twenty-five percent of the revenues received by a vendor pursuant to each vendor contract entered into by the university.

B. The athletic facility surcharge shall be imposed only for the period necessary for payment of principal and interest on the bonds issued to accomplish the purpose for which the revenue is dedicated, but the period shall not exceed thirty years from the date of the resolution imposing the surcharge.

C. A university that has established an athletic facility surcharge shall include the surcharge in the terms of each vendor contract into which it enters.

D. A university may establish charges and fees deemed necessary by the board or the president for the use, operation or management of a university athletic facility by a person other than the university.

## **Chapter 117 Section 8 Laws 2007**

Section 8. COLLECTION OF ATHLETIC FACILITY SURCHARGE-- REMITTANCE TO UNIVERSITY.--

A. Upon the sale of a product or service subject to the athletic facility surcharge, a vendor shall collect the athletic facility surcharge from the purchaser of that product or service on behalf of the university and shall act as a trustee for the surcharge receipts. A purchaser of a product or service subject to the athletic facility surcharge shall be charged separately for the athletic facility surcharge from the cost of the product or service, or the vendor shall institute accounting controls or procedures sufficient to identify the amount of the surcharge owed to a university for each sale, transaction or exchange subject to the surcharge. Receipts from the athletic facility surcharge shall be remitted by a vendor to the president no later than the tenth day of the month following the collection of the surcharge.

B. The president shall deposit university athletic facility revenues and athletic facility surcharge receipts into the athletic facility bonding fund and act as trustee of the revenue on behalf of bondholders pursuant to the University Athletic Facility Funding Act so long as any bonds remain outstanding.

## **Chapter 117 Section 9 Laws 2007**

Section 9. AUDITS.--The board shall provide by resolution a method to audit or otherwise ensure that vendors subject to the athletic facility surcharge collect and remit to the president the full amount of the surcharge receipts due to the university.

## **Chapter 117 Section 10 Laws 2007**

Section 10. ENFORCEMENT--PENALTIES.--

A. An action to enforce the imposition and collection of an athletic facility surcharge by a vendor may be brought by a university.

B. A district court may issue an appropriate judgment, order or remedy to enforce the provisions of a vendor contract.

C. A judgment issued by a district court requiring athletic facility surcharge receipts to be paid to a university by a vendor shall also award interest at an annual rate of twelve percent on past due amounts, attorney fees and costs to a university.

## **Chapter 117 Section 11 Laws 2007**

Section 11. LIBERAL INTERPRETATION.--The University Athletic Facility Funding Act shall be liberally construed to carry out its purpose.

## **Chapter 117 Section 12 Laws 2007**

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

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Senate Bill 717, as amended

with emergency clause

Approved March 30, 2007

# **LAWS 2007, CHAPTER 118**

AN ACT

RELATING TO HIGHER EDUCATION; CREATING THE COLLEGE ASSISTANCE  
MIGRANT PROGRAM AT NEW MEXICO STATE UNIVERSITY.

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

## **Chapter 118 Section 1 Laws 2007**

### Section 1. COLLEGE ASSISTANCE MIGRANT PROGRAM.--

A. The "college assistance migrant program" is created at New Mexico state university to serve educational needs of migrants and seasonal farm workers who are students at the university by offering sufficient support to ensure participants' success in the first year of college and by maintaining communication with former participants to ensure they receive the support they need to graduate.

B. The program shall:

(1) address the achievement gap of farm worker students in higher education and bridge educational outreach issues within that population;

(2) assist each student to graduate from New Mexico state university with a bachelor's degree;

(3) provide students with assistance with housing and meal costs, comprehensive health examinations, art and cultural activities, tutoring and mentoring services, leadership training workshops and school supplies; and

(4) provide overall educational support and communication with family, community members and university administrators and faculty that serve as the educational support network for each student.

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Senate Bill 858

Approved March 30, 2007

## **LAWS 2007, CHAPTER 119**

AN ACT

RELATING TO PUBLIC SAFETY; CREATING THE ENDANGERED PERSON ADVISORY; PROVIDING FOR NOTIFICATION TO AND DISSEMINATION BY THE MEDIA OF MISSING PERSONS WHO ARE IN DANGER.

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

## **Chapter 119 Section 1 Laws 2007**

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

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

A. "child" means an individual under the age of eighteen years who is not emancipated;

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

C. "custodian" means a parent, guardian or other person who exercises legal physical control, care or custody of a child;

D. "endangered person" means a missing person who:

(1) is in imminent danger of causing harm to the person's self;

(2) is in imminent danger of causing harm to another;

(3) is in imminent danger of being harmed by another or who has been harmed by another; or

(4) has Alzheimer's disease;

E. "immediate family member" means the spouse or nearest relative of a person;

F. "lead station" means an AM radio station that has been designated as the "state primary station" by the federal communications commission for the emergency alert system;

G. "missing person" means a person whose whereabouts are unknown to the person's custodian or immediate family member and the circumstances of whose absence indicate that:

(1) the person did not leave the care and control of the custodian or immediate family member voluntarily and the taking of the person was not authorized by law; or

(2) the person voluntarily left the care and control of the custodian without the custodian's consent and without intent to return;

H. "missing person report" means information that is:

(1) given to a law enforcement agency on a form used for sending information to the national crime information center; and

(2) about a person whose whereabouts are unknown to the reporter and who is alleged in the form submitted by the reporter to be missing;

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

J. "possible match" means the similarities between an unidentified body of a person and a missing person that would lead one to believe they are the same person;

K. "reporter" means the person who reports a missing person; and

L. "state agency" means an agency of the state, political subdivision of the state or public post-secondary educational institution."

## **Chapter 119 Section 2 Laws 2007**

Section 2. Section 29-15-7 NMSA 1978 (being Laws 1995, Chapter 146, Section 7) is amended to read:

"29-15-7. LAW ENFORCEMENT REQUIREMENTS--MISSING PERSON REPORTS--UNIDENTIFIED BODIES.--

A. A law enforcement agency, upon receiving a missing person report, shall:

(1) immediately start an appropriate investigation to determine the present location of the missing person and to determine whether the missing person is an endangered person;

(2) provide to the clearinghouse all information the law enforcement agency has relating to an investigation regarding or the location or identification of a missing person;

(3) immediately enter the name of the missing person into the clearinghouse and the national crime information center missing person file; and

(4) if the missing person is determined to be an endangered person, immediately notify the department of public safety in accordance with procedures prescribed by the department.

B. Information not immediately available shall be obtained as soon as possible by the law enforcement agency and entered into the clearinghouse and the national crime information center file as a supplement to the original entry.

C. All New Mexico law enforcement agencies are required to enter information about all unidentified bodies of persons found in their jurisdiction into the clearinghouse and the national crime information center unidentified person file, including all available identifying features of the body and a description of the clothing found on the body. If an

information entry into the national crime information center file results in an automatic entry of the information into the clearinghouse, the law enforcement agency is not required to make a direct entry of that information into the clearinghouse."

### **Chapter 119 Section 3 Laws 2007**

Section 3. A new section of the Missing Persons Information Act is enacted to read:

"ENDANGERED PERSON ADVISORY.--

A. The department of public safety shall issue an endangered person advisory if, after review and investigation of a missing person report of an endangered person, the department makes an independent determination that the missing person is an endangered person.

B. The department shall develop and implement endangered person advisory procedures for the purpose of disseminating, as rapidly as possible, information about an endangered person. The procedures shall include:

(1) notification to the lead station of the endangered person advisory;

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

(3) providing information about the endangered person, including all identifying information, to the lead station and other media sources."

### **Chapter 119 Section 4 Laws 2007**

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 912, as amended

Approved March 30, 2007

## **LAWS 2007, CHAPTER 120**

AN ACT

RELATING TO MUNICIPAL AND COUNTY POWERS; PROVIDING FOR PRESERVATION AND PROTECTION OF WATER RESOURCES.

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

**Chapter 120 Section 1 Laws 2007**

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

"WATER RESOURCES--COUNTY OR MUNICIPAL REQUIREMENTS.--

A. For the purpose of preserving and protecting water resources and to provide an assured water supply for the community, a county or municipality may require:

- (1) site development standards to conserve water and minimize water loss;
- (2) water harvesting and storage;
- (3) low water use landscaping and plant materials;
- (4) nonagricultural residential and commercial water use limitations; or
- (5) recycling and reuse of water.

B. The provisions of this section shall be implemented consistent with state engineer rules.

C. Agricultural water users or agricultural water rights owners are excluded from the provisions of Subsection A of this section."

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House Energy and Natural Resources

Committee Substitute for House Bill 13,

as amended

Approved April 2, 2007

**LAWS 2007, CHAPTER 121**

AN ACT

RELATING TO TORT CLAIMS; INCREASING THE MAXIMUM LIABILITY AMOUNTS FOR CERTAIN CLAIMS AGAINST A GOVERNMENTAL ENTITY OR PUBLIC EMPLOYEE PURSUANT TO THE TORT CLAIMS ACT.

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

## **Chapter 121 Section 1 Laws 2007**

Section 1. Section 41-4-19 NMSA 1978 (being Laws 1976, Chapter 58, Section 17, as amended) is amended to read:

"41-4-19. MAXIMUM LIABILITY.--

A. Unless limited by Subsection B of this section, in any action for damages against a governmental entity or a public employee while acting within the scope of the employee's duties as provided in the Tort Claims Act, the liability shall not exceed:

(1) the sum of two hundred thousand dollars (\$200,000) for each legally described real property for damage to or destruction of that legally described real property arising out of a single occurrence;

(2) the sum of three hundred thousand dollars (\$300,000) for all past and future medical and medically related expenses arising out of a single occurrence; and

(3) the sum of four hundred thousand dollars (\$400,000) to any person for any number of claims arising out of a single occurrence for all damages other than real property damage and medical and medically related expenses as permitted under the Tort Claims Act.

B. The total liability for all claims pursuant to Paragraphs (1) and (3) of Subsection A of this section that arise out of a single occurrence shall not exceed seven hundred fifty thousand dollars (\$750,000).

C. Interest shall be allowed on judgments against a governmental entity or public employee for a tort for which immunity has been waived under the Tort Claims Act at a rate equal to two percentage points above the prime rate as published in the *Wall Street Journal* on the date of the entry of the judgment. Interest shall be computed daily from the date of the entry of the judgment until the date of payment.

D. No judgment against a governmental entity or public employee for any tort for which immunity has been waived under the Tort Claims Act shall include an award for exemplary or punitive damages or for interest prior to judgment."

## **Chapter 121 Section 2 Laws 2007**

Section 2. APPLICABILITY.--The provisions of this act apply only to claims for damages resulting from torts committed on or after July 1, 2008.

## **Chapter 121 Section 3 Laws 2007**

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2008.

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House Appropriations and Finance Committee

Substitute for House Bill 14, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 122**

### **AN ACT**

RELATING TO PUBLIC SCHOOL FINANCE; MAKING CASH BALANCE CREDITS PROPORTIONAL TO THE SIZE OF THE EXCESS CASH BALANCE.

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

### **Chapter 122 Section 1 Laws 2007**

Section 1. Section 22-8-41 NMSA 1978 (being Laws 1967, Chapter 16, Section 99, as amended) is amended to read:

"22-8-41. RESTRICTION ON OPERATIONAL FUNDS--EMERGENCY ACCOUNTS--CASH BALANCES.--

A. A school district shall not expend money from its operational fund for the acquisition of a building site or for the construction of a new structure, unless the school district has bonded itself to practical capacity or the secretary determines and certifies to the legislative finance committee that the expending of money from the operational fund for this purpose is necessary for an adequate public educational program and will not unduly hamper the school district's current operations.

B. A school district or charter school may budget out of cash balances carried forward from the previous fiscal year an amount not to exceed five percent of its proposed operational fund expenditures for the ensuing fiscal year as an emergency account. Money in the emergency account shall be used only for unforeseen expenditures incurred after the annual budget was approved and shall not be expended without the prior written approval of the secretary.

C. In addition to the emergency account, school districts or charter schools may also budget operational fund cash balances carried forward from the previous fiscal year for operational expenditures, exclusive of salaries and payroll, upon specific prior approval of the secretary. The secretary shall notify the legislative finance committee in

writing of the secretary's approval of such proposed expenditures. For fiscal years 2004 and 2005, with the approval of the secretary, a school district or charter school may budget so much of its operational cash balance as is needed for nonrecurring expenditures, including capital outlay.

D. Beginning with fiscal year 2007, prior to approval of a school district's or charter school's budget, the secretary shall verify that the reductions from the state equalization guarantee distribution have been taken pursuant to this section.

E. The allowable limit for a school district's or charter school's ending operational cash balance is:

(1) if the current year program cost is less than five million dollars (\$5,000,000), eighteen percent of the budgeted expenditures;

(2) if the current year program cost is five million dollars (\$5,000,000) or more but less than ten million dollars (\$10,000,000), twelve percent of the budgeted expenditures;

(3) if the current year program cost is ten million dollars (\$10,000,000) or more but less than twenty-five million dollars (\$25,000,000), ten percent of the budgeted expenditures;

(4) if the current year program cost is twenty-five million dollars (\$25,000,000) or more but less than two hundred million dollars (\$200,000,000), eight percent of the budgeted expenditures; and

(5) if the current year program cost is two hundred million dollars (\$200,000,000) or more, five percent of the budgeted expenditures.

F. Except as otherwise provided in this section, for the 2006 and subsequent fiscal years, the secretary shall reduce the state equalization guarantee distribution, calculated pursuant to Section 22-8-25 NMSA 1978, to each school district or charter school by an amount equal to the school district's or charter school's excess cash balance. As used in this section, "excess cash balance" means the difference between a school district's or a charter school's actual operational cash balance and the allowable limit calculated pursuant to Subsection E of this section. However:

(1) for a school district or charter school with a current year program cost that exceeds two hundred million dollars (\$200,000,000), if the excess cash balance is greater than twenty percent of the allowable, unrestricted, unreserved operational cash balance and the emergency reserve, the reduction pursuant to this subsection shall equal twenty percent of the allowable, unrestricted, unreserved operational cash balance and the emergency reserve; and

(2) for other school districts and charter schools, if the excess cash balance is greater than eighteen percent of the allowable, unrestricted, unreserved operational cash balance and the emergency reserve, the reduction pursuant to this subsection shall equal eighteen percent of the allowable unrestricted, unreserved operational cash balance and the emergency reserve.

G. In developing budgets, school districts and charter schools shall not budget current year cash balances without the approval of the secretary.

H. A school district or charter school whose enrollment growth exceeds one percent from the prior year and whose facility master plan includes the addition of a new school within two years may request from the secretary a waiver of up to fifty percent of the reduction otherwise required by Subsection F of this section.

I. Upon application by a school district, the secretary may waive all or a portion of the reduction otherwise required by Subsection F of this section if the secretary finds that the school district's excess balance is needed to provide the local match required under the Public School Capital Outlay Act or to recoup an amount paid as the district's share pursuant to Section 22-24-

5.7 NMSA 1978.

J. Notwithstanding the provisions of Subsection F of this section, for fiscal year 2004, the reduction from the state equalization guarantee distribution shall be the greater of the amount calculated pursuant to that subsection or ten dollars (\$10.00) per MEM.

K. For the purposes of this section, "operational cash balance" means the allowable, unrestricted, unreserved operational cash balance and the emergency reserve.

L. For the purposes of this section, "allowable, unrestricted, unreserved operational cash balance and the emergency reserve" means the proportional share not attributable to revenue derived from the school district property tax, forest reserve funds and impact aid for which the state takes credit in determining a school district's or charter school's state equalization guarantee distribution."

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House Bill 59

Approved April 2, 2007

## **LAWS 2007, CHAPTER 123**

AN ACT

RELATING TO THE SEX OFFENDER MANAGEMENT BOARD; ADDING THE SECRETARY OF PUBLIC EDUCATION AND THE SECRETARY OF INDIAN AFFAIRS TO THE BOARD.

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

### **Chapter 123 Section 1 Laws 2007**

Section 1. Section 9-3-1 NMSA 1978 (being Laws 1977, Chapter 257, Section 1, as amended) is amended to read:

"9-3-1. SHORT TITLE.--Chapter 9, Article 3 NMSA 1978 may be cited as the "Corrections Department Act"."

### **Chapter 123 Section 2 Laws 2007**

Section 2. Section 9-3-13 NMSA 1978 (being Laws 2003 (1st S.S.), Chapter 1, Section 1, as amended) is amended to read:

"9-3-13. SEX OFFENDER MANAGEMENT BOARD--CREATION--MEMBERSHIP--DUTIES.--

A. There is created within the New Mexico sentencing commission the "sex offender management board". Members of the sex offender management board who are not members of the New Mexico sentencing commission, whose membership is set forth in Section 9-3-10 NMSA 1978, shall not be voting members of the New Mexico sentencing commission.

B. The sex offender management board shall be composed of the following members:

- (1) the attorney general or designee;
- (2) a district attorney appointed by the district attorneys association of New Mexico;
- (3) the chief public defender or designee;
- (4) a district court judge appointed by the district court judge's association of New Mexico;
- (5) the secretary of corrections or designee;
- (6) the secretary of health or designee;
- (7) the secretary of children, youth and families or designee;

(8) the secretary of public safety or designee;

(9) the secretary of public education or designee;

(10) the secretary of Indian affairs or designee;

(11) one public member appointed by the governor who is a board member of a New Mexico victims organization;

(12) two representatives appointed by the governor who are mental health professionals licensed to practice in New Mexico. One of the mental health professionals shall be a member of the association for the treatment of sexual abusers and one shall be a juvenile sex offender treatment specialist;

(13) a representative appointed by the governor from the adult probation and parole division of the corrections department who has expertise in the supervision of sex offenders;

(14) a representative appointed by the governor from the law enforcement community who has expertise regarding sex offender community notification, registration, tracking and monitoring;

(15) a representative appointed by the governor who is affiliated with a civil liberties organization; and

(16) a representative appointed by the governor who is affiliated with a faith-based organization.

C. The sex offender management board shall report its findings and recommendations to the New Mexico sentencing commission on a quarterly basis. The New Mexico sentencing commission shall vote to approve, disapprove or revise the recommendations of the board.

D. The sex offender management board shall:

(1) hold meetings at times and for periods as the board deems necessary to accomplish its objectives, but shall meet at least eight times a year;

(2) develop and prescribe a standard procedure for the identification and evaluation of convicted sex offenders. The procedure shall include behavior management, monitoring, treatment and program compliance for sex offenders. The board shall develop and recommend measures of success;

(3) develop and recommend guidelines and standards for the treatment of sex offenders that can be utilized by offenders who are placed on probation, incarcerated with the corrections department, placed on parole or placed in a community corrections program. The guidelines and standards shall include a monitoring process and a plan for developing treatment programs for sex offenders, including determining the duration, terms and conditions of probation and parole for sex offenders;

(4) create a risk assessment screening tool and program to assist sentencing of sex offenders, including determining the duration, terms and conditions of probation and parole for sex offenders;

(5) develop guidelines and standards for monitoring sex offenders who are undergoing evaluation or treatment, including behavioral monitoring;

(6) develop criteria for measuring a sex offender's progress in treatment programs. The parole board shall use the criteria approved by the New Mexico sentencing commission to determine whether a sex offender may appropriately be discharged from parole;

(7) develop a standardized procedure for the identification and evaluation of juvenile sex offenders. The procedure shall include behavior management, monitoring, treatment and program compliance for juvenile sex offenders. The board shall develop and implement measures of success;

(8) develop and recommend guidelines and standards for the treatment of juvenile sex offenders who are placed on probation, committed to a state agency, placed on parole or placed in a community corrections program;

(9) research and analyze safety issues raised when sex offenders live in a community;

(10) study and consider the viability and legality of a civil commitment program for sex offenders;

(11) research and determine the feasibility and legality of implementing indeterminate sentencing for sex offenders;

(12) study the use of clinical polygraph testing as a means to evaluate sex offenders;

(13) evaluate sex offender treatment programs administered by state agencies and recommend changes, if needed, in those treatment programs; and

(14) review the provisions of the Sex Offender Notification and Registration Act and recommend changes, if needed, to that act.

E. The members of the sex offender management board shall be paid pursuant to the Per Diem and Mileage Act and shall receive no other perquisite, compensation or allowance."

## **Chapter 123 Section 3 Laws 2007**

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 61

Approved April 2, 2007

## **LAWS 2007, CHAPTER 124**

AN ACT

RELATING TO THE TRIBAL INFRASTRUCTURE ACT; AMENDING LEGISLATIVE OVERSIGHT DUTIES.

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

## **Chapter 124 Section 1 Laws 2007**

Section 1. Section 9-21-24 NMSA 1978 (being Laws 2005, Chapter 146, Section 8) is amended to read:

"9-21-24. LEGISLATIVE OVERSIGHT--RULE REVIEW--REPORT.--

A. Rules proposed by the board and the department of finance and administration pursuant to the Tribal Infrastructure Act shall be reviewed by the legislative interim Indian affairs committee prior to approval.

B. The legislative interim Indian affairs committee shall be briefed by the board on grant and loan proposals submitted to the board and shall review, monitor and provide assistance and advice concerning grants and loans proposed by the board.

C. The board shall report to the legislative interim Indian affairs committee no later than October 1 of each year regarding the total expenditures from the project 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 in the subsequent legislative session."

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House Bill 101

Approved April 2, 2007

## **LAWS 2007, CHAPTER 125**

AN ACT

RELATING TO TRADE PRACTICES; REGULATING THE SALE AND REDEMPTION OF GIFT CERTIFICATES; ESTABLISHING PENALTIES; AMENDING A SECTION OF THE UNCLAIMED PROPERTY ACT.

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

### **Chapter 125 Section 1 Laws 2007**

#### Section 1. GIFT CERTIFICATES--EXPIRATION--FEES--PENALTIES.--

A. As used in this section, "gift certificate" means a writing identified as a gift certificate that is not redeemable in cash and is usable in its face amount in lieu of cash in exchange for goods or services supplied by a seller, but does not include a gift certificate useable with multiple unaffiliated sellers or goods or services. "Gift certificate" includes an electronic card with a banked dollar value, a merchandise credit, a certificate where the issuer has received payment for the full face value for the future purchase or delivery of goods or services and any other medium that evidences the giving of consideration in exchange for the right to redeem the certificate, electronic card or other medium for goods or services of at least an equal value. "Gift certificate" does not include:

(1) gift certificates, store gift cards or general use prepaid cards distributed to a consumer for promotional, award, incentive, rebate or other similar purposes without any money or other tangible thing of value being given by the consumer in exchange for the gift certificate, store gift card or general use prepaid card;

(2) gift certificates, store gift cards or general use prepaid cards that are sold below face value or at a volume discount to employers or to nonprofit and charitable organizations for fund-raising purposes;

(3) written promises, plastic cards or other electronic devices that are:

(a) used solely for telephone services; or

(b) are associated with a deposit,

checking, savings or similar account at a banking or other similarly regulated financial institution and that provide payments solely by debiting such account; and

(4) gift certificates issued by banks, savings and loan associations and their affiliates and subsidiaries, licensed money transmitters or credit unions operating pursuant to the laws of the United States or New Mexico.

B. A gift certificate shall not have an expiration date less than sixty months after the date upon which the gift certificate was issued. If an expiration date is not conspicuously stated on a gift certificate, that gift certificate shall be presumed to have no expiration date and shall be valid until redeemed or replaced.

C. An issuer of a gift certificate shall not charge a fee of any kind in relation to the sale, redemption or replacement of a gift certificate other than an initial charge not exceeding the face value of the gift certificate, nor may a gift certificate be reduced in value by any fee, including a service or dormancy fee.

D. A violation of this section shall constitute an unfair or deceptive trade practice and shall be subject to the penalties set forth in the Unfair Practices Act.

## **Chapter 125 Section 2 Laws 2007**

Section 2. Section 7-8A-2 NMSA 1978 (being Laws 1997, Chapter 25, Section 2) is amended to read:

"7-8A-2. PRESUMPTIONS OF ABANDONMENT.--

A. Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(1) traveler's check, fifteen years after issuance;

(2) money order, seven years after issuance;

(3) stock or other equity interest in a business association or financial organization, including a security entitlement under Article 8 of the Uniform Commercial Code, five years after the earlier of:

(a) the date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner; or

(b) the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;

(4) debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, five years after the date of the most recent interest payment unclaimed by the apparent owner;

(5) a demand, savings or time deposit, including a deposit that is automatically renewable, five years after the earlier of maturity or the date of the last indication by the owner of interest in the property; but a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

(6) money or credits owed to a customer as a result of a retail business transaction, three years after the obligation accrued;

(7) gift certificate, five years after December 31 of the year in which the certificate was sold, but if redeemable in merchandise only, the amount abandoned is deemed to be sixty percent of the certificate's face value;

(8) amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, three years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, three years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(9) property distributable by a business association or financial organization in a course of dissolution, one year after the property becomes distributable;

(10) property received by a court as proceeds of a class action and not distributed pursuant to the judgment, one year after the distribution date;

(11) property held by a court, government, governmental subdivision, agency or instrumentality, one year after the property becomes distributable;

(12) wages or other compensation for personal services, one year after the compensation becomes payable;

(13) deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable;

(14) property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, three years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified

in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and

(15) all other property, five years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

B. At the time that an interest is presumed abandoned under Subsection A of this section, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

C. Property is unclaimed if, for the applicable period set forth in Subsection A of this section, the apparent owner has not communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

D. An indication of an owner's interest in property includes:

(1) the presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(2) owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;

(3) the making of a deposit to or withdrawal from a bank account; and

(4) the payment of a premium with respect to a property interest in an insurance policy; but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

E. Property is payable or distributable for purposes of the Uniform Unclaimed Property Act (1995) notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment."

## **Chapter 125 Section 3 Laws 2007**

Section 3. SEVERABILITY.--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.

### **Chapter 125 Section 4 Laws 2007**

Section 4. APPLICABILITY.--The provisions of this act apply to gift certificates sold or offered for sale on or after July 1, 2007.

### **Chapter 125 Section 5 Laws 2007**

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Judiciary Committee

Substitute for House Bill 127

Approved April 2, 2007

## **LAWS 2007, CHAPTER 126**

AN ACT

RELATING TO PROFESSIONAL AND OCCUPATIONAL LICENSES; PROVIDING FOR LANDSCAPE ARCHITECT IN TRAINING CERTIFICATION; CHANGING THE REGISTRATION QUALIFICATIONS FOR A LANDSCAPE ARCHITECT; AMENDING AND ENACTING SECTIONS OF THE LANDSCAPE ARCHITECTS ACT.

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

### **Chapter 126 Section 1 Laws 2007**

Section 1. Section 61-24B-3 NMSA 1978 (being Laws 1985, Chapter 151, Section 3, as amended) is amended to read:

"61-24B-3. DEFINITIONS.--As used in the Landscape Architects Act:

A. "board" means the board of landscape architects;

B. "general administration of a construction contract" means the interpretation of drawings and specifications, the establishment of standards of acceptable workmanship and the periodic observation of construction to facilitate consistency with the general intent of the construction documents;

C. "landscape architect" means an individual registered under the Landscape Architects Act to practice landscape architecture;

D. "landscape architect in training" means an individual certified under the Landscape Architects Act who is actively pursuing completion of the requirements for licensure pursuant to that act; and

E. "landscape architecture" means the art, profession or science of designing land improvements, including consultation, investigation, research, design, preparation of drawings and specifications and general administration of contracts. Nothing contained in this definition shall be construed as authorizing a landscape architect to engage in the practice of architecture, engineering or land surveying as defined by Chapter 61, Articles 15 and 23 NMSA 1978."

## **Chapter 126 Section 2 Laws 2007**

Section 2. Section 61-24B-5 NMSA 1978 (being Laws 1985, Chapter 151, Section 5, as amended) is amended to read:

"61-24B-5. EXEMPTIONS.--

A. The following shall be exempt from the provisions of the Landscape Architects Act as long as they do not hold themselves out as landscape architects or use the term "landscape architect" without being registered pursuant to the Landscape Architects Act:

(1) landscape architects who are not legal residents of or who have no established place of business in this state who are acting as consulting associates of a landscape architect registered under the provisions of the Landscape Architects Act; provided that the nonresident landscape architect meets equivalent registration qualifications in the landscape architect's own state or country;

(2) landscape architects acting solely as officers or employees of the United States; and

(3) a person making plans for a landscape associated with a single-family residence or a multifamily residential complex of four units or less except when it is part of a larger complex.

B. Nothing in the Landscape Architects Act is intended to limit, interfere with or prevent a professional architect, engineer or land surveyor from engaging in landscape architecture within the limits of the architect's, engineer's or land surveyor's licensure.

C. Nothing in the Landscape Architects Act is intended to limit, interfere with or prevent the landscape architects in training, drafters, students, clerks or superintendents and other employees of registered landscape architects from acting

under the instructions, control or supervision of the landscape architect or to prevent the employment of superintendents on the construction, enlargement or alterations of landscape improvements or any appurtenances thereto or to prevent such superintendents from acting under the immediate personal supervision of landscape architects by whom the plans and specifications of any landscape architectural services were prepared."

### **Chapter 126 Section 3 Laws 2007**

Section 3. Section 61-24B-7 NMSA 1978 (being Laws 1985, Chapter 151, Section 7, as amended) is amended to read:

"61-24B-7. BOARD--POWERS AND DUTIES.--The board shall:

- A. promulgate rules necessary to effectuate the provisions of the Landscape Architects Act;
- B. provide for the examination, registration and re-registration of applicants;
- C. adopt and use a seal;
- D. administer oaths and take testimony on matters within the board's jurisdiction;
- E. grant, deny, renew, suspend or revoke certificates of registration to practice landscape architecture in accordance with the provisions of the Uniform Licensing Act for any cause stated in the Landscape Architects Act;
- F. grant, deny, renew, suspend or revoke landscape architect in training certificates in accordance with the provisions of the Uniform Licensing Act for any cause stated in the Landscape Architects Act;
- G. conduct hearings upon charges relating to discipline of a registrant or the denial, suspension or revocation of a certificate of registration; and
- H. in cooperation with the state board of examiners for architects and the state board of licensure for professional engineers and surveyors, create a joint standing committee to be known as the "joint practice committee" to safeguard life, health and property and to promote the public welfare. The committee shall promote and develop the highest professional standards in design, planning and construction and the resolution of ambiguities concerning the professions. The composition of this committee and its powers and duties shall be in accordance with identical resolutions adopted by each board."

### **Chapter 126 Section 4 Laws 2007**

Section 4. Section 61-24B-8 NMSA 1978 (being Laws 1985, Chapter 151, Section 8, as amended) is amended to read:

"61-24B-8. QUALIFICATIONS FOR REGISTRATION.--A person desiring to become registered as a landscape architect shall make application to the board on a written form and in such manner as the board prescribes, pay all required application fees and certify and furnish evidence to the board that the applicant:

A. has graduated from an accredited program in landscape architecture at a school, college or university and has a minimum of two years of practical experience acceptable to the board, at least one year of which shall be under the supervision of a landscape architect;

B. has graduated from a nonaccredited program of landscape architecture at a school, college or university offering a minimum four-year bachelor's degree curriculum or a minimum two-year master's degree curriculum and has a minimum of four years of practical experience acceptable to the board, at least one year of which shall be under the supervision of a landscape architect;

C. has graduated from a program in a field related to landscape architecture at a school, college or university offering a minimum four-year bachelor's degree curriculum or a minimum two-year master's degree curriculum and has a minimum of five years of practical experience acceptable to the board, at least one year of which shall be under the supervision of a landscape architect; or

D. has a minimum of ten years of practical experience in landscape architectural work that is acceptable to the board, at least one year of which shall be under the supervision of a landscape architect, provided that:

(1) each satisfactorily completed year of study in an accredited program of landscape architecture may be accepted in lieu of one year of practical experience required under this subsection; or

(2) a baccalaureate degree from a school, college or university may be accepted in lieu of two years of practical experience required under this subsection."

## **Chapter 126 Section 5 Laws 2007**

Section 5. A new section of the Landscape Architects Act is enacted to read:

"QUALIFICATIONS FOR CERTIFICATION AS LANDSCAPE ARCHITECT IN TRAINING.--A person desiring to be certified as a landscape architect in training shall make application to the board on a written form and in such manner as the board prescribes, pay all required application fees and certify and furnish evidence to the board that the applicant has practical experience in landscape architectural work acceptable to the board and has:

A. graduated from an accredited program in landscape architecture at a school, college or university;

B. graduated from a non-accredited program of landscape architecture at a school, college or university offering a minimum four-year bachelor's degree curriculum or a minimum two-year master's degree curriculum; or

C. graduated from a program related to landscape architecture at a school, college or university offering a minimum four-year bachelor's degree curriculum or a minimum two-year master's degree curriculum."

## **Chapter 126 Section 6 Laws 2007**

Section 6. A new section of the Landscape Architects Act is enacted to read:

"CERTIFICATION AS LANDSCAPE ARCHITECT IN TRAINING--  
EXAMINATION.--

A. Applicants for certification as a landscape architect in training shall be required to pass the board's examination for landscape architect in training. An applicant who passes the examination may be issued a certificate as a landscape architect in training. The certification is intended to demonstrate that the applicant has obtained certain skills in landscape architecture fundamentals and is pursuing a career in landscape architecture.

B. The board shall conduct examinations of applicants for certification as landscape architects in training at least once each year. The examination shall determine the ability of the applicant to use and understand the theory and practice of landscape architecture and may be divided into such subjects as the board deems necessary.

C. An applicant who fails to pass the examination may reapply for the examination if the applicant complies with the rules established by the board.

D. Certification as a landscape architect in training is limited in duration in accordance with the rules established by the board."

## **Chapter 126 Section 7 Laws 2007**

Section 7. Section 61-24B-11 NMSA 1978 (being Laws 1985, Chapter 151, Section 11, as amended) is amended to read:

"61-24B-11. FEES.--The board shall establish a schedule of reasonable fees for applications, certificates of registration, certificates as a landscape architect in training, temporary permits, re-registration, inactive status and late registration renewal as follows:

A. the initial application fee shall be set in an amount not to exceed one hundred dollars (\$100);

B. the initial certificate of registration fee shall be set in an amount not to exceed three hundred dollars (\$300);

C. the certificate of registration renewal fee shall be set in an amount not to exceed four hundred dollars (\$400);

D. the initial and the renewal fee for landscape architect in training certification shall be set in an amount not to exceed two hundred dollars (\$200);

E. the annual inactive status fee shall be set at one-half the renewal fee for the year; and

F. the late fee for registration renewal shall be set at an amount not to exceed twice the renewal fee."

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House Bill 128

Approved April 2, 2007

## **LAWS 2007, CHAPTER 127**

### AN ACT

RELATING TO TAX ADMINISTRATION; AUTHORIZING THE SECRETARY OF TAXATION AND REVENUE TO EXTEND TIME TO FILE INCOME TAX RETURNS; REQUIRING CERTAIN TAX PREPARERS TO FILE RETURNS ELECTRONICALLY; PROVIDING A PENALTY.

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

### **Chapter 127 Section 1 Laws 2007**

Section 1. Section 7-1-13 NMSA 1978 (being Laws 1965, Chapter 248, Section 18, as amended) is amended to read:

"7-1-13. TAXPAYER RETURNS--PAYMENT OF TAXES--EXTENSION OF TIME.--

A. Taxpayers are liable for tax at the time of and after the transaction or incident giving rise to tax until payment is made. Taxes are due on and after the date on which their payment is required until payment is made.

B. Every taxpayer shall, on or before the date on which payment of any tax is due, complete and file a tax return in a form prescribed and according to the regulations issued by the secretary. Except as provided in Section 7-1-13.1 NMSA 1978 or by regulation, ruling, order or instruction of the secretary, the payment of any tax or the filing of any return may be accomplished by mail. When the filing of a tax return or payment of a tax is accomplished by mail, the date of the postmark shall be considered the date of submission of the return or payment.

C. If any adjustment is made in the basis for computation of any federal tax as a result of an audit by the internal revenue service or the filing of an amended federal return changing a prior election or making any other change for which federal approval is required by the Internal Revenue Code, the taxpayer affected shall, within ninety days of the internal revenue service audit adjustment or payment of the federal refund, file an amended return with the department. Payment of any additional tax due shall accompany the return.

D. Payment of the total amount of all taxes that are due from the taxpayer shall precede or accompany the return. Delivery to the department of a check that is not paid upon presentment does not constitute payment.

E. The secretary or the secretary's delegate may, for good cause, extend in favor of a taxpayer or a class of taxpayers, for no more than a total of twelve months, the date on which payment of any tax is required or on which any return required by provision of the Tax Administration Act shall be filed, but no extension shall prevent the accrual of interest as otherwise provided by law. When an extension of time for income tax has been granted a taxpayer under the Internal Revenue Code, the extension shall serve to extend the time for filing New Mexico income tax provided that a copy of the approved federal extension of time is attached to the taxpayer's New Mexico income tax return. The secretary by regulation may also provide for the automatic extension for no more than six months of the date upon which payment of any New Mexico income tax or the filing of any New Mexico income tax return is required. If the secretary or the secretary's delegate believes it necessary to ensure the collection of the tax, the secretary or the secretary's delegate may require, as a condition of granting any extension, that the taxpayer furnish security in accordance with the provisions of Section 7-1-54 NMSA 1978."

## **Chapter 127 Section 2 Laws 2007**

Section 2. A new section of the Tax Administration Act is enacted to read:

"TAX RETURN PREPARER--ELECTRONIC FILING REQUIREMENT--  
PENALTY.--

A. In taxable years beginning on or after January 1, 2008, a tax return preparer who prepares over twenty-five personal income tax returns for a taxable year shall ensure that each return is submitted to the department by a department-approved

electronic media, unless a person for whom the preparer files a return requests, in a form prescribed by the department, that the return be filed by other means in accordance with department rule.

B. A tax return preparer shall pay to the department a penalty not to exceed five dollars (\$5.00) for each tax return filed in violation of this section."

### **Chapter 127 Section 3 Laws 2007**

Section 3. APPLICABILITY.--The provisions of Section 1 of this act apply to taxable years beginning on or after January 1, 2007.

### **Chapter 127 Section 4 Laws 2007**

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 181, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 128**

AN ACT

RELATING TO TRUSTS; AMENDING THE UNIFORM TRUST CODE; AMENDING, RECOMPILING AND ENACTING SECTIONS OF THE NMSA 1978.

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

### **Chapter 128 Section 1 Laws 2007**

Section 1. Section 46A-1-101 NMSA 1978 (being Laws 2003, Chapter 122, Section 1-101) is amended to read:

"46A-1-101. SHORT TITLE.--Chapter 46A NMSA 1978 may be cited as the "Uniform Trust Code"."

### **Chapter 128 Section 2 Laws 2007**

Section 2. Section 46A-1-103 NMSA 1978 (being Laws 2003, Chapter 122, Section 1-103) is amended to read:

"46A-1-103. DEFINITIONS.--As used in the Uniform Trust Code:

A. "action", with respect to an act of a trustee, includes a failure to act;

B. "ascertainable standard" means a standard relating to an individual's health, education, support or maintenance within the meaning of Subparagraph (A) of Paragraph (1) of Subsection (b) of Section 2041 and Paragraph (1) of Subsection (c) of Section 2514 of the Internal Revenue Code of 1986, as amended;

C. "beneficiary" means a person that:

(1) has a present or future beneficial interest in a trust, vested or contingent; or

(2) in a capacity other than that of trustee, holds a power of appointment over trust property;

D. "charitable trust" means a trust or portion of a trust created for a charitable purpose described in Subsection A of Section 46A-4-405 NMSA 1978;

E. "conservator" means a person appointed by the court to administer the estate of a minor or adult individual;

F. "environmental law" means a federal, state or local law, rule, regulation or ordinance relating to protection of the environment;

G. "guardian" means a person appointed by the court or a parent to make decisions regarding the support, care, education, health and welfare of a minor or adult person. "Guardian" does not include a guardian ad litem;

H. "interests of the beneficiaries" means the beneficial interests provided in the terms of the trust;

I. "jurisdiction", with respect to a geographic area, includes a state or country;

J. "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation or any other legal or commercial entity;

K. "power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable:

(1) by a trustee and limited by an ascertainable standard; or

(2) by another person only upon consent of the trustee or a person holding an adverse interest;

L. "property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein;

M. "qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

(1) is a distributee or permissible distributee of trust income or principal;

(2) would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in Paragraph (1) of this subsection terminated on that date without causing the trust to terminate; or

(3) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date;

N. "revocable", as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest;

O. "settlor" means a person, including a testator, who creates or contributes property to a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution, except to the extent another person has the power to revoke or withdraw that portion;

P. "spendthrift provision" means a term of a trust that restrains both voluntary and involuntary transfer of a beneficiary's interest;

Q. "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States. "State" includes an Indian tribe, pueblo, nation or band recognized by federal law or formally acknowledged by a state;

R. "terms of a trust" means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or as may be established by other evidence that would be admissible in a judicial proceeding;

S. "trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto; and

T. "trustee" includes an original trustee, an additional trustee, a successor trustee and a co-trustee."

## **Chapter 128 Section 3 Laws 2007**

Section 3. Section 46A-1-104 NMSA 1978 (being Laws 2003, Chapter 122, Section 1-104) is amended to read:

"46A-1-104. KNOWLEDGE.--

A. Subject to Subsection B of this section, a person has knowledge of a fact if the person:

(1) has actual knowledge;

(2) has received a notice or notification of it; or

(3) from all the facts and circumstances known to the person at the time in question, has reason to know it.

B. An organization that conducts activities through employees has notice or knowledge of a fact involving a trust only from the time the information was received by an employee having responsibility to act for the trust, or would have been brought to the employee's attention if the organization had exercised reasonable diligence. An organization exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the employee having responsibility to act for the trust and there is reasonable compliance with the routines. Reasonable diligence does not require an employee of the organization to communicate information unless the communication is part of the employee's regular duties or the employee knows that a matter involving the trust would be materially affected by the information."

## **Chapter 128 Section 4 Laws 2007**

Section 4. Section 46A-1-105 NMSA 1978 (being Laws 2003, Chapter 122, Section 1-105) is amended to read:

"46A-1-105. DEFAULT AND MANDATORY RULES.--

A. Except as otherwise provided in the terms of the trust, the Uniform Trust Code governs the duties and powers of a trustee, relations among trustees and the rights and interests of a beneficiary.

B. The terms of a trust prevail over any provision of the Uniform Trust Code except:

(1) the requirements for creating a trust;

(2) the duty of a trustee to act in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries;

(3) the requirement that a trust and its terms be for the benefit of its beneficiaries and that the trust have a purpose that is lawful, not contrary to public policy and possible to achieve;

(4) the power of the court to modify or terminate a trust under Sections 46A-4-410 through 46A-4-416 NMSA 1978;

(5) the effect of a spendthrift provision and the rights of certain creditors and assignees to reach a trust as provided in Chapter 46A, Article 5 NMSA 1978;

(6) the power of the court under Section 46A-7-702 NMSA 1978 to require, dispense with or modify or terminate a bond;

(7) the power of the court under Subsection B of Section 46A-7-708 NMSA 1978 to adjust a trustee's compensation specified in the terms of the trust that is unreasonably low or high;

(8) the duty under Paragraphs (2) and (3) of Subsection B of Section 46A-8-813 NMSA 1978 to notify qualified beneficiaries of an irrevocable trust who have attained twenty-five years of age of the existence of the trust, of the identity of the trustee and of their right to request reports of the trustee;

(9) except as otherwise provided in Subsection F of Section 46A-8-813 NMSA 1978, the duty under Subsection A of Section 46A-8-813 NMSA 1978 to respond to the request of a qualified beneficiary of an irrevocable trust for a trustee's reports and other information reasonably related to the administration of a trust;

(10) the effect of an exculpatory term under Section 46A-10-1008 NMSA 1978;

(11) the rights under Sections 46A-10-1010 through 46A-10-1013 NMSA 1978 of a person other than a trustee or beneficiary;

(12) periods of limitation for commencing a judicial proceeding; provided, however, any such period may be increased;

(13) the power of the court to take such action and exercise such jurisdiction as may be necessary in the interests of justice; and

(14) the subject-matter jurisdiction of the court and venue for commencing a proceeding as provided in Sections 46A-2-203 and 46A-2-204 NMSA 1978."

## **Chapter 128 Section 5 Laws 2007**

Section 5. Section 46A-1-107 NMSA 1978 (being Laws 2003, Chapter 122, Section 1-107) is amended to read:

"46A-1-107. GOVERNING LAW.--The meaning and effect of the terms of a trust are determined by:

A. the law of the state designated in the terms;

B. the law of the jurisdiction designated in the terms, which jurisdiction is not a state, unless the designation of that jurisdiction's law is contrary to a strong public policy of this state or the state jurisdiction having the most significant relationship to the matter at issue; or

C. in the absence of a controlling designation in the terms of the trust, the law of the jurisdiction having the most significant relationship to the matter at issue."

## **Chapter 128 Section 6 Laws 2007**

Section 6. Section 46A-1-110 NMSA 1978 (being Laws 2003, Chapter 122, Section 1-110) is amended to read:

"46A-1-110. OTHERS TREATED AS QUALIFIED BENEFICIARIES.--

A. A charitable organization expressly designated to receive distributions under the terms of a charitable trust has the rights of a qualified beneficiary under the Uniform Trust Code if the charitable organization, on the date the charitable organization's qualification is being 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 upon the termination of the interests of other distributees or permissible distributees then receiving or eligible to receive distributions; or

(3) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

B. A person appointed to enforce a trust created for the care of an animal or another noncharitable purpose as provided in Section 46A-4-408 or 46A-4-409 NMSA 1978 has the rights of a qualified beneficiary under the Uniform Trust Code.

C. The attorney general has the rights of a qualified beneficiary with respect to a charitable trust having its principal place of administration in this state or its charitable

beneficiary or beneficiaries that receive or are eligible to receive in the aggregate the trust's largest distribution in this state."

### **Chapter 128 Section 7 Laws 2007**

Section 7. Section 46A-2-203 NMSA 1978 (being Laws 2003, Chapter 122, Section 2-203) is amended to read:

"46A-2-203. SUBJECT-MATTER JURISDICTION.--The district court has exclusive jurisdiction of all proceedings involving a trust."

### **Chapter 128 Section 8 Laws 2007**

Section 8. A new section of the Uniform Trust Code, Section 46A-2-204 NMSA 1978, is enacted to read:

"46A-2-204. VENUE.--

A. Except as otherwise provided in Subsection B of this section, venue for a judicial proceeding involving a trust is in the county of New Mexico in which the trust's principal place of administration is or will be located or, if the trust is created by will and the estate is not yet closed, in the county in which the decedent's estate is being administered.

B. If a trust has no trustee, venue for a judicial proceeding for the appointment of a trustee is in a county of New Mexico in which a beneficiary resides, in a county in which any trust property is located or, if the trust is created by will, in the county in which the decedent's estate was or is being administered."

### **Chapter 128 Section 9 Laws 2007**

Section 9. Section 46A-3-301 NMSA 1978 (being Laws 2003, Chapter 122, Section 3-301) is amended to read:

"46A-3-301. REPRESENTATION--BASIC EFFECT.--

A. Notice to a person who may represent and bind another person pursuant to the provisions of Chapter 46A, Article 3 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 46A, Article 3 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 46A, Article 3 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 may not represent or bind a beneficiary pursuant to the provisions of Chapter 46A, Article 3 NMSA 1978 with respect to the termination or modification of a trust under Subsection A of Section 46A-4-411 NMSA 1978."

## **Chapter 128 Section 10 Laws 2007**

Section 10. Section 46A-4-411 NMSA 1978 (being Laws 2003, Chapter 122, Section 4-411) is amended to read:

"46A-4-411. MODIFICATION OR TERMINATION OF NONCHARITABLE IRREVOCABLE TRUST BY CONSENT.--

A. A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust. If upon petition the court finds that the settlor and all beneficiaries consent to the modification or termination of a noncharitable irrevocable trust, the court shall approve the modification or termination even if the modification or termination is inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's modification or termination may be exercised by an agent under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust; by the settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized; or by the settlor's guardian with the approval of the court supervising the guardianship if an agent is not so authorized and a conservator has not been appointed.

B. A noncharitable irrevocable trust may be terminated upon consent of all of the beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust. A noncharitable irrevocable trust may be modified upon consent of all of the beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust.

C. For purposes of this section only, a spendthrift provision in the terms of a trust is not presumed to constitute either a material or an immaterial provision of the trust.

D. Upon termination of a trust under Subsection A or B of this section, the trustee shall distribute the trust property as agreed by the beneficiaries.

E. If not all of the beneficiaries consent to a proposed modification or termination of the trust under Subsection A or B of this section, the modification or termination may be approved by the court if the court is satisfied that:

(1) if all of the beneficiaries had consented, the trust could have been modified or terminated under this section; and

(2) the interests of a beneficiary who does not consent will be adequately protected."

## **Chapter 128 Section 11 Laws 2007**

Section 11. Section 46A-4-412 NMSA 1978 (being Laws 2003, Chapter 122, Section 4-412) is amended to read:

"46A-4-412. MODIFICATION OR TERMINATION BECAUSE OF UNANTICIPATED CIRCUMSTANCES OR INABILITY TO ADMINISTER TRUST EFFECTIVELY.--

A. The court may modify the administrative or dispositive terms of a trust or terminate the trust if it is established by clear and convincing evidence that there are circumstances not anticipated by the settlor and modification or termination will further the purposes of the trust. To the extent practicable, the modification must be made in accordance with the settlor's probable intention.

B. The court may modify the administrative terms of a trust if continuation of the trust on its existing terms would be impracticable or wasteful or impair the trust's administration.

C. Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust."

## **Chapter 128 Section 12 Laws 2007**

Section 12. Section 46A-5-501 NMSA 1978 (being Laws 2003, Chapter 122, Section 5-501) is amended to read:

"46A-5-501. RIGHTS OF BENEFICIARY'S CREDITOR OR ASSIGNEE.--To the extent a beneficiary's interest is not subject to a spendthrift provision, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means. The court may limit the award to such relief as is appropriate under the circumstances."

## **Chapter 128 Section 13 Laws 2007**

Section 13. Section 46A-5-503 NMSA 1978 (being Laws 2003, Chapter 122, Section 5-503) is amended to read:

"46A-5-503. EXCEPTIONS TO SPENDTHRIFT PROVISION.--

A. As used in this section, "child" includes any person for whom an order or judgment for child support has been entered in this or another state.

B. A spendthrift provision is unenforceable against:

(1) a beneficiary's child, spouse or former spouse who has a judgment or court order against the beneficiary for support or maintenance;

(2) a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust; and

(3) a claim of this state or the United States to the extent a statute of this state or federal law so provides.

C. A claimant against whom a spendthrift provision cannot be enforced may obtain from a court an order attaching present or future distributions to or for the benefit of the beneficiary. The court may limit the award to such relief as is appropriate under the circumstances. The order attaching present or future distributions to or for the benefit of the beneficiary shall be the exclusive remedy available to a claimant against whom a spendthrift provision cannot be enforced."

## **Chapter 128 Section 14 Laws 2007**

Section 14. Section 46A-5-504 NMSA 1978 (being Laws 2003, Chapter 122, Section 5-504) is amended to read:

"46A-5-504. DISCRETIONARY TRUSTS--EFFECT OF STANDARD.--

A. As used in this section, "child" includes any person for whom an order or judgment for child support has been entered in this or another state.

B. Except as otherwise provided in Subsection C of this section, whether or not a trust contains a spendthrift provision, a creditor of a beneficiary may not compel a distribution that is subject to the trustee's discretion, even if:

(1) the discretion is expressed in the form of a standard of distribution; or

(2) the trustee has abused the discretion.

C. To the extent a trustee has not complied with a standard of distribution or has abused a discretion:

(1) a distribution may be ordered by the court to satisfy a judgment or court order against the beneficiary for support or maintenance of the beneficiary's child, spouse or former spouse; and

(2) the court shall direct the trustee to pay to the child, spouse or former spouse such amount as is equitable under the circumstances but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.

D. This section does not limit the right of a beneficiary to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.

E. If the trustee's or co-trustee's discretion to make distributions for the trustee's or co-trustee's own benefit is limited by an ascertainable standard, a creditor shall not reach or compel distribution of the beneficial interest except to the extent the interest would be subject to the creditor's claim were the beneficiary not acting as trustee or co-trustee."

## **Chapter 128 Section 15 Laws 2007**

Section 15. Section 46A-5-506 NMSA 1978 (being Laws 2003, Chapter 122, Section 5-506) is amended to read:

"46A-5-506. OVERDUE DISTRIBUTION.--

A. Whether or not a trust contains a spendthrift provision, a creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distribution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the designated distribution date.

B. As used in this section, "mandatory distribution" means a distribution of income or principal that the trustee is required to make to a beneficiary under the terms of the trust, including a distribution upon termination of the trust. "Mandatory distribution" does not include a distribution subject to the exercise of the trustee's discretion even if the discretion is expressed in the form of a standard of distribution or the terms of the trust authorizing distribution combine language of discretion with language of direction."

## **Chapter 128 Section 16 Laws 2007**

Section 16. Section 46A-6-602 NMSA 1978 (being Laws 2003, Chapter 122, Section 6-602) is amended to read:

"46A-6-602. REVOCATION OR AMENDMENT OF REVOCABLE TRUST.--

A. Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor may revoke or amend the trust. This subsection does not apply to a trust created under an instrument executed before July 1, 2003.

B. If a revocable trust is created or funded by more than one settlor:

(1) to the extent the trust consists of community property, the trust may be revoked by either spouse acting alone but may be amended only by joint action of both spouses;

(2) to the extent the trust consists of property other than community property, each settlor may revoke or amend the trust with regard to the portion of the trust property attributable to that settlor's contribution; and

(3) upon the revocation or amendment of the trust by fewer than all of the settlors, the trustee shall promptly notify the other settlors of the revocation or amendment.

C. The settlor may revoke or amend a revocable trust:

(1) by substantial compliance with a method provided in the terms of the trust; or

(2) if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by:

(a) a later will or codicil that expressly refers to the trust or specifically devises property that would otherwise have passed according to the terms of the trust; or

(b) any other method manifesting clear and convincing evidence of the settlor's intent.

D. Upon revocation of a revocable trust, the trustee shall deliver the trust property as the settlor directs.

E. A settlor's powers with respect to revocation, amendment or distribution of trust property may be exercised by an agent under a power of attorney only to the extent expressly authorized by the terms of the trust or the power.

F. A conservator of the settlor or, if no conservator has been appointed, a guardian of the settlor may exercise a settlor's powers with respect to revocation, amendment or distribution of trust property only with the approval of the court supervising the conservatorship or guardianship.

G. A trustee who does not know that a trust has been revoked or amended is not liable to the settlor or settlor's successors in interest for distributions made and other actions taken on the assumption that the trust had not been amended or revoked."

## **Chapter 128 Section 17 Laws 2007**

Section 17. Section 46A-6-603 NMSA 1978 (being Laws 2003, Chapter 122, Section 6-603) is amended to read:

**"46A-6-603. SETTLOR'S POWERS--POWERS OF WITHDRAWAL.--**

A. While a trust is revocable and the settlor has capacity to revoke the trust, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor.

B. During the period the power may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power."

### **Chapter 128 Section 18 Laws 2007**

Section 18. A new section of the Uniform Trust Code, Section 46A-6-604 NMSA 1978, is enacted to read:

**"46A-6-604. LIMITATION ON ACTION CONTESTING VALIDITY OF REVOCABLE TRUST--DISTRIBUTION OF TRUST PROPERTY.--**

A. A person may commence a judicial proceeding to contest the validity of a trust that was revocable at the settlor's death within the earlier of:

(1) three years after the settlor's death; or

(2) one hundred twenty days after the trustee sent the person a copy of the trust instrument and a notice informing the person of the trust's existence, of the trustee's name and address and of the time allowed for commencing a proceeding.

B. Upon the death of the settlor of a trust that was revocable at the settlor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust. The trustee is not subject to liability for doing so unless:

(1) the trustee knows of a pending judicial proceeding contesting the validity of the trust; or

(2) a potential contestant has notified the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced within sixty days after the contestant sent the notification.

C. A beneficiary of a trust that is determined to have been invalid is liable to return any distribution received."

### **Chapter 128 Section 19 Laws 2007**

Section 19. Section 46A-7-702 NMSA 1978 (being Laws 2003, Chapter 122, Section 7-702) is amended to read:

"46A-7-702. TRUSTEE'S BOND.--

A. A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.

B. The court may specify the amount of a bond, its liabilities and whether sureties are necessary. The court may modify or terminate a bond at any time.

C. A regulated financial service institution qualified to do trust business in New Mexico need not give bond, even if required by the terms of the trust."

### **Chapter 128 Section 20 Laws 2007**

Section 20. Section 46A-7-705 NMSA 1978 (being Laws 2003, Chapter 122, Section 7-705) is amended to read:

"46A-7-705. RESIGNATION OF TRUSTEE.--

A. A trustee may resign:

(1) upon at least thirty days' notice to the qualified beneficiaries, the settlor, if living, and all co-trustees; or

(2) with the approval of the court.

B. In approving a resignation, the court may issue orders and impose conditions reasonably necessary for the protection of the trust property.

C. Any liability of a resigning trustee or of any sureties on the trustee's bond for acts or omissions of the trustee is not discharged or affected by the trustee's resignation."

### **Chapter 128 Section 21 Laws 2007**

Section 21. Section 46A-8-802 NMSA 1978 (being Laws 2003, Chapter 122, Section 8-802) is amended to read:

"46A-8-802. DUTY OF LOYALTY.--

A. A trustee shall administer the trust solely in the interests of the beneficiaries.

B. Subject to the rights of persons dealing with or assisting the trustee as provided in Section 46A-10-1012 NMSA 1978, a sale, encumbrance or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or that is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless:

(1) the transaction was authorized by the terms of the trust;

(2) the transaction was approved by the court;

(3) the beneficiary did not commence a judicial proceeding within the time allowed by Section 46A-10-1005 NMSA 1978;

(4) the beneficiary consented to the trustee's conduct, ratified the transaction or released the trustee in compliance with Section 46A-10-1009 NMSA 1978; or

(5) the transaction involved a contract entered into or claim acquired by the trustee before the person became or contemplated becoming trustee.

C. A sale, encumbrance or other transaction involving the investment or management of trust property is presumed to be affected by a conflict between personal and fiduciary interests if it is entered into by the trustee with:

(1) the trustee's spouse;

(2) the trustee's descendants, siblings, parents or the spouse of any of them;

(3) an agent or attorney of the trustee; or

(4) a corporation or other person or enterprise in which the trustee, or a person that owns a significant interest in the trustee, has an interest that might affect the trustee's best judgment.

D. A transaction between a trustee and a beneficiary that does not concern trust property but that occurs during the existence of the trust or while the trustee retains significant influence over the beneficiary and from which the trustee obtains an advantage is voidable by the beneficiary unless the trustee establishes that the transaction was fair to the beneficiary.

E. A transaction not concerning trust property in which the trustee engages in the trustee's individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust.

F. An investment by a trustee in securities of an investment company or investment trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee is not presumed to be affected by a conflict between personal and fiduciary interests if the investment otherwise complies with the Uniform Prudent Investor Act. In addition to its compensation for acting as trustee, the trustee may be compensated by the investment company or investment trust for providing those services out of fees charged to the trust. If the trustee receives compensation from the investment company or investment trust for providing investment advisory or investment services, the trustee at least annually shall notify the persons entitled under Section 46A-8-813 NMSA 1978 to receive a copy of the trustee's annual report of the rate and method by which the compensation was determined.

G. In voting shares of stock or in exercising powers of control over similar interests in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries. If the trust is the sole owner of a corporation or other form of enterprise, the trustee shall elect or appoint directors or other managers who will manage the corporation or enterprise in the best interests of the beneficiaries.

H. This section does not preclude the following transactions, if fair to the beneficiaries:

- (1) an agreement between a trustee and a beneficiary relating to the appointment or compensation of the trustee;
- (2) payment of reasonable compensation to the trustee;
- (3) a transaction between a trust and another trust, decedent's estate or conservatorship of which the trustee is a fiduciary or in which a beneficiary has an interest;
- (4) a deposit of trust money in a regulated financial-service institution operated by the trustee; or
- (5) an advance by the trustee of money for the protection of the trust.

I. The court may appoint a special fiduciary to make a decision with respect to any proposed transaction that might violate this section if entered into by the trustee."

## **Chapter 128 Section 22 Laws 2007**

Section 22. Section 46A-8-813 NMSA 1978 (being Laws 2003, Chapter 122, Section 8-813) is amended to read:

"46A-8-813. DUTY TO INFORM AND REPORT.--

A. A trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. Unless unreasonable under the circumstances, a trustee shall promptly respond to a beneficiary's request for information related to the administration of the trust.

B. A trustee:

(1) upon request of a beneficiary, shall promptly furnish to the beneficiary a copy of the trust instrument;

(2) within sixty days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address and telephone number;

(3) within sixty days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument and of the right to a trustee's report as provided in Subsection C of this section; and

(4) shall notify the qualified beneficiaries in advance of any change in the method or rate of the trustee's compensation.

C. A trustee shall send to the distributees or permissible distributees of trust income or principal, and to other qualified or nonqualified beneficiaries who request it, at least annually and at the termination of the trust, a report of the trust property, liabilities, receipts and disbursements, including the source and amount of the trustee's compensation, a listing of the trust assets and, if feasible, their respective market values. Upon a vacancy in a trusteeship, unless a co-trustee remains in office, a report must be sent to the qualified beneficiaries by the former trustee. A personal representative, conservator or guardian may send the qualified beneficiaries a report on behalf of a deceased or incapacitated trustee.

D. A beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section. A beneficiary, with respect to future reports and other information, may withdraw a waiver previously given.

E. Paragraphs (2) and (3) of Subsection B of this section do not apply to a trustee who accepts a trusteeship before July 1, 2003, to an irrevocable trust created before July 1, 2003 or to a revocable trust that becomes irrevocable before July 1, 2003.

F. A knowing waiver by a settlor of the duties of the trustee to inform and report to beneficiaries under the Uniform Trust Code is effective, but only while the trustee is a regulated financial service institution qualified to do trust business in New Mexico. The

knowing waiver must be conspicuous, must be contained in the terms of the trust or of a separate affidavit signed by the settlor and must state that the settlor has been informed of the risks and consequences of the waiver and that the settlor nevertheless directs that the reports and information be withheld by the trustee. As used in this subsection, "conspicuous" means conspicuous as defined in Section 55-1-201 NMSA 1978. The knowing waiver may direct that the reports and information be withheld:

- (1) in whole or in part;
- (2) from one or more beneficiaries or classes of beneficiaries, qualified or otherwise;
- (3) in all events;
- (4) until the occurrence of a date, event or contingency;
- (5) in the sole and absolute discretion of the trustee or another person or both; or
- (6) subject to more than one of the restrictions in Paragraphs (1) through (5) of this subsection."

## **Chapter 128 Section 23 Laws 2007**

Section 23. Section 46A-8-814 NMSA 1978 (being Laws 2003, Chapter 122, Section 8-814) is amended to read:

"46A-8-814. DISCRETIONARY POWERS--TAX SAVINGS.--

A. Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust, including the use of such terms as "absolute", "sole" or "uncontrolled", the trustee shall exercise a discretionary power in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries.

B. Subject to Subsection D of this section, and unless the terms of the trust expressly indicate that a rule in this subsection does not apply:

- (1) a person other than a settlor who is a beneficiary and trustee of a trust that confers on the trustee a power to make discretionary distributions to or for the trustee's personal benefit may exercise the power only in accordance with an ascertainable standard; and
- (2) a trustee may not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes another person.

C. A power whose exercise is limited or prohibited by Subsection B of this section may be exercised by a majority of the remaining trustees whose exercise of the power is not so limited or prohibited. If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise the power.

D. Subsection B of this section does not apply to:

(1) a power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in Section 2056(b)(5) or 2523(b)(5) of the Internal Revenue Code of 1986, as amended, was previously allowed;

(2) any trust during any period that the trust may be revoked or amended by its settlor; or

(3) a trust if contributions to the trust qualify for the annual exclusion under Section 2503(c) of the Internal Revenue Code of 1986, as amended."

## **Chapter 128 Section 24 Laws 2007**

Section 24. Section 46A-8-815 NMSA 1978 (being Laws 2003, Chapter 122, Section 8-815) is amended to read:

"46A-8-815. GENERAL POWERS OF TRUSTEE.--

A. A trustee, without authorization by the court, may exercise:

(1) powers conferred by the terms of the trust; and

(2) except as limited by the terms of the trust:

(a) all powers over the trust property that an unmarried competent owner has over individually owned property;

(b) any other powers appropriate to achieve the proper investment, management and distribution of the trust property; and

(c) any other powers conferred by the Uniform Trust Code.

B. The exercise of a power is subject to the fiduciary duties prescribed by Chapter 46A, Article 8 NMSA 1978."

## **Chapter 128 Section 25 Laws 2007**

Section 25. Section 46A-10-1001 NMSA 1978 (being Laws 2003, Chapter 122, Section 10-1001) is amended to read:

"46A-10-1001. BREACH OF TRUST.--

A. A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of trust.

B. To remedy a breach of trust that has occurred or may occur, the court may:

- (1) compel the trustee to perform the trustee's duties;
- (2) enjoin the trustee from committing a breach of trust;
- (3) compel the trustee to redress a breach of trust by paying money, restoring property or other means;
- (4) order a trustee to account;
- (5) appoint a special fiduciary to take possession of the trust property and administer the trust;
- (6) suspend the trustee;
- (7) remove the trustee as provided in Section 46A-7-706 NMSA 1978;
- (8) reduce or deny compensation to the trustee;
- (9) subject to Section 46A-10-1012 NMSA 1978, void an act of the trustee, impose a lien or a constructive trust on trust property or trace trust property wrongfully disposed of and recover the property or its proceeds; or
- (10) order any other appropriate relief."

## **Chapter 128 Section 26 Laws 2007**

Section 26. Section 46A-10-1002 NMSA 1978 (being Laws 2003, Chapter 122, Section 10-1002) is amended to read:

"46A-10-1002. DAMAGES FOR BREACH OF TRUST.--

A. A trustee who commits a breach of trust is liable to the beneficiaries affected for the greater of:

- (1) the amount required to restore the value of the trust property and trust distributions to what they would have been had the breach not occurred; or
- (2) the profit the trustee made by reason of the breach.

B. Except as otherwise provided in this subsection, if more than one trustee is liable to the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other trustee or trustees. A trustee is not entitled to contribution if the trustee was substantially more at fault than another trustee or if the trustee committed the breach of trust in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries. A trustee who received a benefit from the breach of trust is not entitled to contribution from another trustee to the extent of the benefit received."

## **Chapter 128 Section 27 Laws 2007**

Section 27. A new section of the Uniform Trust Code, Section 46A-10-1005 NMSA 1978, is enacted to read:

"46A-10-1005. LIMITATION OF ACTION AGAINST TRUSTEE.--

A. A beneficiary shall not commence a proceeding against a trustee for breach of trust more than one year after the date the beneficiary or a representative of the beneficiary was sent a report that adequately disclosed the existence of a potential claim for breach of trust and informed the beneficiary of the time allowed for commencing a proceeding.

B. A report adequately discloses the existence of a potential claim for breach of trust if it provides sufficient information so that the beneficiary or representative knows of the potential claim or should have inquired into its existence.

C. If Subsection A of this section does not apply, a judicial proceeding by a beneficiary against a trustee for breach of trust must be commenced within five years after the first to occur of:

- (1) the removal, resignation or death of the trustee;
- (2) the termination of the beneficiary's interest in the trust; or
- (3) the termination of the trust."

## **Chapter 128 Section 28 Laws 2007**

Section 28. A new section of the Uniform Trust Code, Section 46A-10-1011 NMSA 1978, is enacted to read:

"46A-10-1011. INTEREST AS GENERAL PARTNER.--

A. Except as otherwise provided in Subsection C of this section or unless personal liability is imposed in the contract, a trustee who holds an interest as a general partner in a general or limited partnership is not personally liable on a contract entered into by the partnership after the trust's acquisition of the interest if the fiduciary capacity

was disclosed in the contract or in a statement previously filed or recorded pursuant to the provisions of any version of the Uniform Partnership Act or the Uniform Limited Partnership Act.

B. Except as otherwise provided in Subsection C of this section, a trustee who holds an interest as a general partner is not personally liable for torts committed by the partnership or for obligations arising from ownership or control of the interest unless the trustee is personally at fault.

C. The immunity provided by this section does not apply if an interest in the partnership is held by the trustee in a capacity other than that of trustee or is held by the trustee's spouse or one or more of the trustee's descendants, siblings or parents, or the spouse of any of them.

D. If the trustee of a revocable trust holds an interest as a general partner, the settlor is personally liable for contracts and other obligations of the partnership as if the settlor were a general partner."

## **Chapter 128 Section 29 Laws 2007**

Section 29. A new section of the Uniform Trust Code, Section 46A-11-1105 NMSA 1978, is enacted to read:

"46A-11-1105. APPLICATION TO EXISTING RELATIONSHIPS.--

A. Except as otherwise provided in this 2007 act:

(1) the provisions of this 2007 act apply to all trusts created before, on or after July 1, 2007;

(2) the provisions of this 2007 act apply to all judicial proceedings concerning trusts commenced on or after July 1, 2007;

(3) the provisions of this 2007 act apply to judicial proceedings concerning trusts commenced before July 1, 2007 unless the court finds that application of a particular provision of this 2007 act would substantially interfere with the effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case the particular provision of this 2007 act does not apply and the superseded law applies;

(4) any rule of construction or presumption provided in this 2007 act applies to trust instruments executed before July 1, 2007 unless there is a clear indication of a contrary intent in the terms of the trust; and

(5) an act done before the effective date of this 2007 act is not affected by the provisions of this 2007 act.

B. If a right is acquired, extinguished or barred upon the expiration of a prescribed period that has commenced to run under any other statute before July 1, 2007, that statute continues to apply to the right even if it has been repealed or superseded.

C. The provisions of this 2007 act do not apply to the trust created by the Enabling Act for New Mexico of June 20, 1910, 36 Stat. 557, Ch. 310."

### **Chapter 128 Section 30 Laws 2007**

Section 30. TEMPORARY PROVISION--RECOMPILATION.--Sections 46A-10-1005 through 46A-10-1009 NMSA 1978 (being Laws 2003, Chapter 122, Sections 10-1005 through 10-1009) are recompiled as Sections 46A-10-1006 through 46A-10-1010 NMSA 1978. Sections 46A-10-1011 and 46A-10-1012 NMSA 1978 (being Laws 2003, Chapter 122, Sections 10-1011 and 10-1012) are recompiled as Sections 46A-10-1012 and 46A-10-1013 NMSA 1978.

### **Chapter 128 Section 31 Laws 2007**

Section 31. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 182, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 129**

AN ACT

RELATING TO BUSINESS LAW; ENACTING THE UNIFORM REVISED LIMITED PARTNERSHIP ACT; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

ARTICLE 1  
GENERAL PROVISIONS

### **Chapter 129 Section 101 Laws 2007**

Section 101. SHORT TITLE.--This act may be cited as the "Uniform Revised Limited Partnership Act".

## Chapter 129 Section 102 Laws 2007

Section 102. DEFINITIONS.--As used in the Uniform Revised Limited Partnership Act:

A. "certificate of limited partnership" means the certificate required by Section 201 of the Uniform Revised Limited Partnership Act. The term includes the certificate as amended or restated;

B. "contribution", except in the phrase "right of contribution", means any benefit provided by a person to a limited partnership in order to become a partner or in the person's capacity as a partner;

C. "debtor in bankruptcy" means a person that is the subject of:

(1) an order for relief pursuant to Title 11 of the United States Code or a comparable order pursuant to a successor statute of general application; or

(2) a comparable order pursuant to federal, state or foreign law governing insolvency;

D. "designated office" means:

(1) with respect to a limited partnership, the office that the limited partnership is required to designate and maintain pursuant to Section 114 of the Uniform Revised Limited Partnership Act; and

(2) with respect to a foreign limited partnership, its principal office;

E. "distribution" means a transfer of money or other property from a limited partnership to a partner in the partner's capacity as a partner or to a transferee on account of a transferable interest owned by the transferee;

F. "foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership pursuant to a provision similar to Subsection C of Section 404 of the Uniform Revised Limited Partnership Act;

G. "foreign limited partnership" means a partnership formed pursuant to the laws of a jurisdiction other than this state and required by those laws to have one or more general partners and one or more limited partners. The term includes a foreign limited liability limited partnership;

H. "general partner" means:

(1) with respect to a limited partnership, a person that:

(a) becomes a general partner pursuant to Section 401 of the Uniform Revised Limited Partnership Act; or

(b) was a general partner in a limited partnership when the limited partnership became subject to the Uniform Revised Limited Partnership Act pursuant to Subsection A of Section 1206 of the Uniform Revised Limited Partnership Act; and

(2) with respect to a foreign limited partnership, a person that has rights, powers and obligations similar to those of a general partner in a limited partnership;

I. "limited liability limited partnership", except in the phrase "foreign limited liability limited partnership", means a limited partnership;

J. "limited partner" means:

(1) with respect to a limited partnership, a person that:

(a) becomes a limited partner pursuant to Section 301 of the Uniform Revised Limited Partnership Act; or

(b) was a limited partner in a limited partnership when the limited partnership became subject to the Uniform Revised Limited Partnership Act pursuant to Subsection A of Section 1206 of the Uniform Revised Limited Partnership Act; and

(2) with respect to a foreign limited partnership, a person that has rights, powers and obligations similar to those of a limited partner in a limited partnership;

K. "limited partnership", except in the phrases "foreign limited partnership" and "foreign limited liability limited partnership", means an entity, having one or more general partners and one or more limited partners that is formed pursuant to the Uniform Revised Limited Partnership Act by two or more persons or becomes subject to Article 11 or Subsection A of Section 1206 of the Uniform Revised Limited Partnership Act. The term includes a limited liability limited partnership;

L. "partner" means a limited partner or general partner;

M. "partnership agreement" means the partners' agreement, whether oral, implied or in a record or in any combination, concerning the limited partnership. The term includes the agreement as amended;

N. "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;

O. "person dissociated as a general partner" means a person dissociated as a general partner of a limited partnership;

P. "principal office" means the office where the principal executive office of a limited partnership or foreign limited partnership is located, whether or not the office is located in this state;

Q. "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;

R. "required information" means the information that a limited partnership is required to maintain pursuant to Section 111 of the Uniform Revised Limited Partnership Act;

S. "sign" means:

(1) to execute or adopt a tangible symbol with the present intent to authenticate a record; or

(2) to attach or logically associate an electronic symbol, sound or process to or with a record with the present intent to authenticate the record;

T. "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;

U. "transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift and transfer by operation of law;

V. "transferable interest" means a partner's right to receive distributions; and

W. "transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.

## **Chapter 129 Section 103 Laws 2007**

Section 103. KNOWLEDGE AND NOTICE.--

A. A person knows a fact if the person has actual knowledge of it.

B. A person has notice of a fact if the person:

(1) knows of it;

(2) has received a notification of it;

(3) has reason to know it exists from all of the facts known to the person at the time in question; or

(4) has notice of it pursuant to Subsection C or D of this section.

C. A certificate of limited partnership on file in the office of the secretary of state is notice that the partnership is a limited partnership. A certificate of limited partnership stating the information required by Section 201 of the Uniform Revised Limited Partnership Act on file in the office of the secretary of state is notice that the partnership is a limited liability limited partnership, except as otherwise provided in Section 1206 of that act. Any certificate of limited partnership is notice that the persons designated in the certificate as general partners are general partners. Except as otherwise provided in Subsection D of this section, the certificate is not notice of any other fact.

D. A person has notice of:

(1) another person's dissociation as a general partner, ninety days after the effective date of an amendment to the certificate of limited partnership that states that the other person has dissociated, or ninety days after the effective date of a statement of dissociation pertaining to the other person, whichever occurs first;

(2) a limited partnership's dissolution, ninety days after the effective date of an amendment to the certificate of limited partnership stating that the limited partnership is dissolved;

(3) a limited partnership's termination, ninety days after the effective date of a statement of termination;

(4) a limited partnership's conversion pursuant to Article 11 of the Uniform Revised Limited Partnership Act, ninety days after the effective date of the articles of conversion; or

(5) a merger pursuant to Article 11 of the Uniform Revised Limited Partnership Act, ninety days after the effective date of the articles of merger.

E. A person notifies or gives a notification to another person by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person learns of it.

F. A person receives a notification when the notification:

(1) comes to the person's attention; or

(2) is delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.

G. Except as otherwise provided in Subsection H of this section, a person other than an individual knows, has notice or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction for the person knows, has notice or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention if the person had exercised reasonable diligence. A person other than an individual exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction for the person and there is reasonable compliance with the routines. Reasonable diligence does not require an individual acting for the person to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

H. A general partner's knowledge, notice or receipt of a notification of a fact relating to the limited partnership is effective immediately as knowledge of, notice to or receipt of a notification by the limited partnership, except in the case of a fraud on the limited partnership committed by or with the consent of the general partner. A limited partner's knowledge, notice or receipt of a notification of a fact relating to the limited partnership is not effective as knowledge of, notice to or receipt of a notification by the limited partnership.

## **Chapter 129 Section 104 Laws 2007**

Section 104. NATURE, PURPOSE AND DURATION OF ENTITY.--

A. A limited partnership is an entity distinct from its partners.

B. A limited partnership may be organized pursuant to the Uniform Revised Limited Partnership Act for any lawful purpose.

C. A limited partnership has a perpetual duration.

## **Chapter 129 Section 105 Laws 2007**

Section 105. POWERS.--A limited partnership has the powers to do all things necessary or convenient to carry on its activities, including the power to sue, be sued and defend in its own name and to maintain an action against a partner for harm caused to the limited partnership by a breach of the partnership agreement or violation of a duty to the partnership.

## **Chapter 129 Section 106 Laws 2007**

Section 106. GOVERNING LAW.--The law of this state governs relations between the partners of a limited partnership and between the partners and the limited partnership, and the liability of partners as partners for an obligation of the limited partnership.

## **Chapter 129 Section 107 Laws 2007**

Section 107. SUPPLEMENTAL PRINCIPLES OF LAW--RATE OF INTEREST.--

A. Unless displaced by particular provisions of the Uniform Revised Limited Partnership Act, the principles of law and equity supplement that act.

B. If an obligation to pay interest arises pursuant to the Uniform Revised Limited Partnership Act and the rate is not specified, the rate is that specified in Section 56-8-4 NMSA 1978 for judgments and decrees.

## **Chapter 129 Section 108 Laws 2007**

Section 108. NAME.--

A. The name of a limited partnership may contain the name of any partner.

B. The name of a limited partnership that is not a limited liability limited partnership shall contain the phrase "limited partnership" or the abbreviation "L.P." or "LP" and shall not contain the phrase "limited liability limited partnership" or the abbreviation "LLLLP" or "L.L.L.P.".

C. The name of a limited liability limited partnership shall contain the phrase "limited liability limited partnership" or the abbreviation "LLLLP" or "L.L.L.P." and shall not contain the abbreviation "L.P." or "LP".

D. Unless authorized by Subsection E of this section, the name of a limited partnership must be distinguishable in the records of the secretary of state from:

(1) the name of each person other than an individual incorporated, organized or authorized to transact business in this state;

(2) each name reserved pursuant to Section 109 of the Uniform Revised Limited Partnership Act or Section 53-11-8 or 53-19-4 NMSA 1978; and

(3) each name registered pursuant to Section 53-11-9 NMSA 1978.

E. A limited partnership may apply to the secretary of state for authorization to use a name that does not comply with Subsection D of this section. The secretary of state shall authorize use of the name applied for if, as to each conflicting name:

(1) the present user, registrant or owner of the conflicting name consents in a signed record to the use and submits an undertaking in a form satisfactory to the secretary of state to change the conflicting name to a name that complies with Subsection D of this section and is distinguishable in the records of the secretary of state from the name applied for;

(2) the applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use in this state the name applied for; or

(3) the applicant delivers to the secretary of state proof satisfactory to the secretary of state that the present user, registrant or owner of the conflicting name:

(a) has merged into the applicant;

(b) has been converted into the applicant; or

(c) has transferred substantially all of its assets, including the conflicting name, to the applicant.

F. Subject to Section 905 of the Uniform Revised Limited Partnership Act, this section applies to any foreign limited partnership transacting business in this state, having a certificate of authority to transact business in this state or applying for a certificate of authority.

## **Chapter 129 Section 109 Laws 2007**

### Section 109. RESERVATION OF NAME.--

A. The exclusive right to the use of a name that complies with Section 108 of the Uniform Revised Limited Partnership Act may be reserved by:

(1) a person intending to organize a limited partnership pursuant to that act and to adopt the name;

(2) a limited partnership or a foreign limited partnership authorized to transact business in this state intending to adopt the name;

(3) a foreign limited partnership intending to obtain a certificate of authority to transact business in this state and adopt the name;

(4) a person intending to organize a foreign limited partnership and intending to have it obtain a certificate of authority to transact business in this state and adopt the name;

(5) a foreign limited partnership formed under the name; or

(6) a foreign limited partnership formed under a name that does not comply with Subsection B or C of Section 108 of the Uniform Revised Limited Partnership Act, but the name reserved pursuant to this paragraph may differ from the foreign limited partnership's name only to the extent necessary to comply with Subsections B and C of Section 108 of the Uniform Revised Limited Partnership Act.

B. A person may apply to reserve a name pursuant to Subsection A of this section by delivering to the secretary of state for filing an application that states the name to be reserved and the paragraph of Subsection A of this section that applies. If the secretary of state finds that the name is available for use by the applicant, the secretary of state shall file a statement of name reservation and thereby reserve the name for the exclusive use of the applicant for one hundred twenty days.

C. An applicant that has reserved a name pursuant to Subsection B of this section may reserve the same name for additional one hundred twenty-day periods. A person having a current reservation for a name may not apply for another one hundred twenty-day period for the same name until ninety days have elapsed in the current reservation.

D. A person that has reserved a name pursuant to this section may deliver to the secretary of state for filing a notice of transfer that states the reserved name, the name and street and mailing address of some other person to which the reservation is to be transferred and the paragraph of Subsection A of this section that applies to the other person. Subject to Subsection C of Section 206 of the Uniform Revised Limited Partnership Act, the transfer is effective when the secretary of state files the notice of transfer.

## **Chapter 129 Section 110 Laws 2007**

### **Section 110. EFFECT OF PARTNERSHIP AGREEMENT--NONWAIVABLE PROVISIONS.--**

A. Except as otherwise provided in Subsection B of this section, the partnership agreement governs relations between the partners and between the partners and the partnership. To the extent the partnership agreement does not otherwise provide, the Uniform Revised Limited Partnership Act governs relations between the partners and between the partners and the partnership.

B. A partnership agreement may not:

(1) vary a limited partnership's power pursuant to Section 105 of the Uniform Revised Limited Partnership Act to sue, be sued and defend in its own name;

(2) vary the law applicable to a limited partnership pursuant to Section 106 of the Uniform Revised Limited Partnership Act;

(3) vary the requirements of Section 204 of the Uniform Revised Limited Partnership Act or Section 54-2-12 NMSA 1978;

(4) vary the information required pursuant to Section 111 of the Uniform Revised Limited Partnership Act or Section 54-2-6 NMSA 1978 or unreasonably restrict the right to information pursuant to Section 304 or 407 of the Uniform Revised Limited

Partnership Act, but the partnership agreement may impose reasonable restrictions on the availability and use of information obtained pursuant to those sections and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;

(5) eliminate the duty of loyalty pursuant to Section 408 of the Uniform Revised Limited Partnership Act, but the partnership agreement may:

(a) identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; and

(b) specify the number or percentage of partners that may authorize or ratify, after full disclosure to all partners of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

(6) unreasonably reduce the duty of care pursuant to Subsection C of Section 408 of the Uniform Revised Limited Partnership Act;

(7) eliminate the obligation of good faith and fair dealing pursuant to Subsection B of Section 305 and Subsection D of Section 408 of the Uniform Revised Limited Partnership Act, but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;

(8) vary the power of a person to dissociate as a general partner pursuant to Subsection A of Section 604 of the Uniform Revised Limited Partnership Act except to require that the notice pursuant to Subsection A of Section 603 of the Uniform Revised Limited Partnership Act be in a record;

(9) vary the power of a court to decree dissolution in the circumstances specified in Section 802 of the Uniform Revised Limited Partnership Act;

(10) vary the requirement to wind up the partnership's business as specified in Section 803 of the Uniform Revised Limited Partnership Act;

(11) unreasonably restrict the right to maintain an action pursuant to Article 10 of the Uniform Revised Limited Partnership Act;

(12) restrict the right of a partner pursuant to Subsection A of Section 1110 of the Uniform Revised Limited Partnership Act to approve a conversion or merger; or

(13) restrict rights pursuant to the Uniform Revised Limited Partnership Act of a person other than a partner or a transferee.

## **Chapter 129 Section 111 Laws 2007**

Section 111. REQUIRED INFORMATION.--A limited partnership shall maintain at its designated office the following information:

A. a current list showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order;

B. a copy of the initial certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment or restatement has been signed;

C. a copy of any filed articles of conversion or merger;

D. a copy of the limited partnership's federal, state and local income tax returns and reports, if any, for the three most recent years;

E. a copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement;

F. a copy of any financial statement of the limited partnership for the three most recent years;

G. a copy of any record made by the limited partnership during the past three years of any consent given by or vote taken of any partner pursuant to the Uniform Revised Limited Partnership Act or the partnership agreement; and

H. unless contained in a partnership agreement made in a record, a record stating:

(1) the amount of cash, and a description and statement of the agreed value of the other benefits, contributed and agreed to be contributed by each partner;

(2) the times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;

(3) for any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and

(4) any events upon the happening of which the limited partnership is to be dissolved and its activities wound up.

## **Chapter 129 Section 112 Laws 2007**

Section 112. BUSINESS TRANSACTIONS OF PARTNER WITH PARTNERSHIP.--A partner may lend money to and transact other business with the

limited partnership and has the same rights and obligations with respect to the loan or other transaction as a person that is not a partner.

### **Chapter 129 Section 113 Laws 2007**

Section 113. DUAL CAPACITY.--A person may be both a general partner and a limited partner. A person that is both a general and limited partner has the rights, powers, duties and obligations provided by the Uniform Revised Limited Partnership Act and the partnership agreement in each of those capacities. When the person acts as a general partner, the person is subject to the obligations, duties and restrictions pursuant to that act and the partnership agreement for general partners. When the person acts as a limited partner, the person is subject to the obligations, duties and restrictions pursuant to that act and the partnership agreement for limited partners.

### **Chapter 129 Section 114 Laws 2007**

Section 114. OFFICE AND AGENT FOR SERVICE OF PROCESS.--

A. A limited partnership shall designate and continuously maintain in this state:

- (1) an office, which need not be a place of its activity in this state; and
- (2) an agent for service of process.

B. A foreign limited partnership shall designate and continuously maintain in this state an agent for service of process.

C. An agent for service of process of a limited partnership or foreign limited partnership must be an individual who is a resident of this state or other person authorized to do business in this state.

### **Chapter 129 Section 115 Laws 2007**

Section 115. CHANGE OF DESIGNATED OFFICE OR AGENT FOR SERVICE OF PROCESS.--In order to change its designated office, agent for service of process or the address of its agent for service of process, a limited partnership or a foreign limited partnership shall deliver to the secretary of state for filing an amendment or restatement of its certificate of limited partnership.

### **Chapter 129 Section 116 Laws 2007**

Section 116. RESIGNATION OF AGENT FOR SERVICE OF PROCESS.--

A. In order to resign as an agent for service of process of a limited partnership or foreign limited partnership, the agent must deliver to the secretary of state for filing a

statement of resignation containing the name of the limited partnership or foreign limited partnership.

B. After receiving a statement of resignation, the secretary of state shall file it and mail a copy to the designated office of the limited partnership or foreign limited partnership and mail another copy to the principal office if the address of the office appears in the records of the secretary of state and is different from the address of the designated office.

C. An agency for service of process is terminated on the thirty-first day after the secretary of state files the statement of resignation.

## **Chapter 129 Section 117 Laws 2007**

### Section 117. SERVICE OF PROCESS.--

A. An agent for service of process appointed by a limited partnership or foreign limited partnership is an agent of the limited partnership or foreign limited partnership for service of any process, notice or demand required or permitted by law to be served upon the limited partnership or foreign limited partnership.

B. If a limited partnership or foreign limited partnership does not appoint or maintain an agent for service of process in this state or the agent for service of process cannot with reasonable diligence be found at the agent's address, the secretary of state is an agent of the limited partnership or foreign limited partnership upon whom process, notice or demand may be served.

C. Service of any process, notice or demand on the secretary of state may be made by delivering to and leaving with the secretary of state duplicate copies of the process, notice or demand and the fee required by Section 210 of the Uniform Revised Limited Partnership Act. If a process, notice or demand is served on the secretary of state, the secretary of state shall forward one of the copies by registered or certified mail, return receipt requested, to the limited partnership or foreign limited partnership at its designated office.

D. Service is effected pursuant to Subsection C of this section at the earliest of:

(1) the date the limited partnership or foreign limited partnership receives the process, notice or demand;

(2) the date shown on the return receipt, if signed on behalf of the limited partnership or foreign limited partnership; or

(3) ten days after the process, notice or demand is deposited in the mail, if mailed postpaid and correctly addressed.

E. The secretary of state shall keep a record of each process, notice and demand served pursuant to this section and record the time of, and the action taken regarding, the service. These records may be destroyed after five years.

F. This section does not affect the right to serve process, notice or demand in any other manner provided by law.

### **Chapter 129 Section 118 Laws 2007**

Section 118. CONSENT AND PROXIES OF PARTNERS.--Action requiring the consent of partners pursuant to the Uniform Revised Limited Partnership Act may be taken without a meeting, and a partner may appoint a proxy to consent or otherwise act for the partner by signing an appointment record, either personally or by the partner's attorney in fact.

### **Chapter 129 Section 119 Laws 2007**

Section 119. LIMITED PARTNERSHIP SUBJECT TO AMENDMENT OR REPEAL OF THE UNIFORM REVISED LIMITED PARTNERSHIP ACT.--A limited partnership governed by the Uniform Revised Limited Partnership Act is subject to any amendment to or repeal of that act.

## **ARTICLE 2 FORMATION; CERTIFICATE OF LIMITED PARTNERSHIP AND OTHER FILINGS**

### **Chapter 129 Section 201 Laws 2007**

Section 201. FORMATION OF LIMITED PARTNERSHIP--CERTIFICATE OF LIMITED PARTNERSHIP.--

A. In order for a limited partnership to be formed, a certificate of limited partnership must be delivered to the secretary of state for filing. The certificate must state:

(1) the name of the limited partnership, which must comply with Subsections A, B, C, D, E and F of Section 108 of the Uniform Revised Limited Partnership Act;

(2) the street and mailing address of the initial designated office and the name and street and mailing address of the initial agent for service of process;

(3) the name and street and mailing address of each general partner;

(4) that the limited partnership is a limited liability limited partnership; and

(5) any additional information required by Article 11 of the Uniform Revised Limited Partnership Act.

B. A certificate of limited partnership may also contain any other matters but may not vary or otherwise affect the provisions specified in Subsection B of Section 110 of the Uniform Revised Limited Partnership Act in a manner inconsistent with that section.

C. If there has been substantial compliance with Subsection A of this section, subject to Subsection C of Section 206 of the Uniform Revised Limited Partnership Act, a limited partnership is formed when the secretary of state files the certificate of limited partnership. The filing of a limited partnership certificate establishes that all conditions precedent to the formation of the limited partnership have been satisfied and that the limited partnership has been duly organized under the Uniform Revised Limited Partnership Act.

D. Subject to Subsection B of this section, if any provision of a partnership agreement is inconsistent with the filed certificate of limited partnership or with a filed statement of dissociation, termination or filed articles of conversion or merger:

(1) the partnership agreement prevails as to partners and transferees; and

(2) the filed certificate of limited partnership, statement of dissociation, termination or filed articles of conversion or merger prevail as to persons, other than partners and transferees, that reasonably rely on the filed record to their detriment.

## **Chapter 129 Section 202 Laws 2007**

### **Section 202. AMENDMENT OR RESTATEMENT OF CERTIFICATE.--**

A. In order to amend its certificate of limited partnership, a limited partnership shall deliver to the secretary of state for filing an amendment or, pursuant to Article 11 of the Uniform Revised Limited Partnership Act, articles of merger stating:

(1) the name of the limited partnership;

(2) the date of filing of its initial certificate;

(3) any identification number assigned by the secretary of state to the limited partnership or the initial certificate, or both; and

(4) the changes the amendment makes to the certificate as most recently amended or restated.

B. A limited partnership shall promptly deliver to the secretary of state for filing an amendment to a certificate of limited partnership to reflect:

(1) any change in the information stated in its certificate of limited partnership;

(2) a change of name of the limited partnership, if its name does not comply with Section 108 of the Uniform Revised Limited Partnership Act;

(3) any other additional or different information required to be stated in its limited partnership certificate by Section 201 of the Uniform Revised Limited Partnership Act that is not stated in the certificate; or

(4) the appointment of a person to wind up the limited partnership's activities pursuant to Subsection C or D of Section 803 of the Uniform Revised Limited Partnership Act.

C. A general partner that knows that any information in a filed certificate of limited partnership was false when the certificate was filed or has become false due to changed circumstances shall promptly:

(1) cause the certificate to be amended; or

(2) if appropriate, deliver to the secretary of state for filing a statement of correction pursuant to Section 207 of the Uniform Revised Limited Partnership Act.

D. A certificate of limited partnership may be amended at any time for any other proper purpose as determined by the limited partnership.

E. A restated certificate of limited partnership may be delivered to the secretary of state for filing in the same manner as an amendment.

F. Subject to Subsection C of Section 206 of the Uniform Revised Limited Partnership Act, an amendment or restated certificate is effective when filed by the secretary of state.

## **Chapter 129 Section 203 Laws 2007**

Section 203. STATEMENT OF TERMINATION.--A dissolved limited partnership that has completed winding up may deliver to the secretary of state for filing a statement of termination that states:

A. the name of the limited partnership;

B. the date of filing of its initial certificate of limited partnership; and

C. any other information as determined by the general partners filing the statement or by a person appointed pursuant to Subsection C or D of Section 803 of the Uniform Revised Limited Partnership Act.

## Chapter 129 Section 204 Laws 2007

### Section 204. SIGNING OF RECORDS.--

A. Each record delivered to the secretary of state for filing pursuant to the Uniform Revised Limited Partnership Act shall be signed in the following manner:

(1) an initial certificate of limited partnership shall be signed by all general partners listed in the certificate;

(2) an amendment designating as general partner a person admitted pursuant to Paragraph (2) of Subsection C of Section 801 of the Uniform Revised Limited Partnership Act following the dissociation of a limited partnership's last general partner shall be signed by that person;

(3) an amendment required by Subsection C of Section 803 of the Uniform Revised Limited Partnership Act following the appointment of a person to wind up the dissolved limited partnership's activities shall be signed by that person;

(4) any other amendment shall be signed by:

(a) at least one general partner listed in the certificate;

(b) each other person designated in the amendment as a new general partner; and

(c) each person that the amendment indicates has dissociated as a general partner, unless: 1) the person is deceased or a guardian or general conservator has been appointed for the person and the amendment so states; or 2) the person has previously delivered to the secretary of state for filing a statement of dissociation;

(5) a restated certificate of limited partnership shall be signed by at least one general partner listed in the certificate, and, to the extent the restated certificate effects a change pursuant to any other paragraph of this subsection, the certificate shall be signed in a manner that satisfies that paragraph;

(6) a statement of termination shall be signed by all general partners listed in the certificate or, if the certificate of a dissolved limited partnership lists no general partners, by the person appointed pursuant to Subsection C or D of Section 803 of the Uniform Revised Limited Partnership Act to wind up the dissolved limited partnership's activities;

(7) articles of conversion shall be signed by each general partner listed in the certificate of limited partnership;

(8) articles of merger shall be signed as provided in Subsection A of Section 1108 of the Uniform Revised Limited Partnership Act;

(9) any other record delivered on behalf of a limited partnership to the secretary of state for filing shall be signed by at least one general partner listed in the certificate;

(10) a statement by a person pursuant to Paragraph (4) of Subsection A of Section 605 of the Uniform Revised Limited Partnership Act stating that the person has dissociated as a general partner shall be signed by that person;

(11) a statement of withdrawal by a person pursuant to Section 306 of the Uniform Revised Limited Partnership Act shall be signed by that person;

(12) a record delivered on behalf of a foreign limited partnership to the secretary of state for filing shall be signed by at least one general partner of the foreign limited partnership; and

(13) any other record delivered on behalf of any person to the secretary of state for filing shall be signed by that person.

B. Any person may sign by an attorney in fact any record to be filed pursuant to the Uniform Revised Limited Partnership Act.

## **Chapter 129 Section 205 Laws 2007**

### Section 205. SIGNING AND FILING PURSUANT TO JUDICIAL ORDER.--

A. If a person required by the Uniform Revised Limited Partnership Act to sign a record or deliver a record to the secretary of state for filing does not do so, any other person that is aggrieved may petition the district court to order:

- (1) the person to sign the record;
- (2) delivery of the record to the secretary of state for filing; or
- (3) the secretary of state to file the record unsigned.

B. If the person aggrieved pursuant to Subsection A of this section is not the limited partnership or foreign limited partnership to which the record pertains, the aggrieved person shall make the limited partnership or foreign limited partnership a party to the action. A person aggrieved pursuant to Subsection A of this section may seek the remedies provided in Subsection A of this section in the same action in combination or in the alternative.

C. A record filed unsigned pursuant to this section is effective without being signed.

## **Chapter 129 Section 206 Laws 2007**

Section 206. DELIVERY TO AND FILING OF RECORDS BY SECRETARY OF STATE--EFFECTIVE TIME AND DATE.--

A. Duplicate originals of a record authorized or required to be delivered to the secretary of state for filing pursuant to the Uniform Revised Limited Partnership Act must:

(1) be captioned to describe the record's purpose;

(2) be in a medium permitted by the secretary of state;

(3) use the English language, except for proper names, which must use letters of the English alphabet, and Arabic numbers;

(4) state any identification number issued by the secretary of state to the limited partnership to which the record refers, to any filed record to which the record refers, or both;

(5) be accompanied by the fee required by Section 210 of that act, or an amount greater than that fee, but any amount greater than that fee shall not be refunded; and

(6) be delivered to the secretary of state.

B. Unless the secretary of state determines that a record does not comply with the filing requirements of the Uniform Revised Limited Partnership Act, and if all filing fees have been paid, the secretary of state shall endorse on each duplicate original the word "filed" and the day, month and year of filing, file one duplicate original of the record and:

(1) for a statement of dissociation, send:

(a) a duplicate original of the filed statement and a receipt for the fees to the person that the statement indicates has dissociated as a general partner; and

(b) a copy of the filed statement and receipt to the limited partnership;

(2) for a statement of withdrawal by a person pursuant to Section 306 of the Uniform Revised Limited Partnership Act, send:

(a) a duplicate original of the filed statement and a receipt for the fees to the person on whose behalf the record was filed; and

(b) if the statement refers to an existing limited partnership, a copy of the filed statement and receipt to the limited partnership; and

(3) for all other records, send a duplicate original of the filed record and a receipt for the fees to the person on whose behalf the record was filed.

C. Upon request and payment of a fee, the secretary of state shall send to the requester a certified copy of the requested record.

D. Except as otherwise provided in Sections 116 and 207 of the Uniform Revised Limited Partnership Act, a record delivered to the secretary of state for filing pursuant to the Uniform Revised Limited Partnership Act may specify an effective time and a delayed effective date. Except as otherwise provided in the Uniform Revised Limited Partnership Act, a record filed by the secretary of state is effective:

(1) if the record does not specify an effective time and does not specify a delayed effective date, on the date and at the time the record is filed as evidenced by the secretary of state's endorsement of the date and time on the record;

(2) if the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record;

(3) if the record specifies a delayed effective date but not an effective time, at 12:01 a.m. on the earlier of:

(a) the specified date; or

(b) the ninetieth day after the record is filed; or

(4) if the record specifies an effective time and a delayed effective date, at the specified time on the earlier of:

(a) the specified date; or

(b) the ninetieth day after the record is filed.

## **Chapter 129 Section 207 Laws 2007**

### **Section 207. CORRECTING FILED RECORD.--**

A. A limited partnership or foreign limited partnership shall deliver to the secretary of state for filing a statement of correction to correct a record previously delivered by the limited partnership or foreign limited partnership to the secretary of

state and filed by the secretary of state, if at the time of filing the record contained false or erroneous information or was defectively signed. The statement of correction shall be delivered to the secretary of state for filing promptly after the limited partnership or foreign limited partnership has notice that the information in the filed record was false or erroneous at the time it was filed or that the filed record was defectively signed.

B. A statement of correction may not state a delayed effective date and must:

(1) describe the record to be corrected, including its filing date, or attach a copy of the record as filed;

(2) state any identification number assigned by the secretary of state to the limited partnership, to the record to be corrected, or both;

(3) specify the incorrect information and the reason it is incorrect or the manner in which the signing was defective; and

(4) correct the incorrect information or defective signature.

C. When filed by the secretary of state, a statement of correction is effective retroactively as of the effective date of the record the statement corrects, but the statement is effective when filed:

(1) for the purposes of Subsections C and D of Section 103 of the Uniform Revised Limited Partnership Act; and

(2) as to persons relying on the uncorrected record and adversely affected by the correction.

## **Chapter 129 Section 208 Laws 2007**

Section 208. LIABILITY FOR FALSE INFORMATION IN FILED RECORD.--

A. If a record delivered to the secretary of state for filing pursuant to the Uniform Revised Limited Partnership Act and filed by the secretary of state contains false information, a person that suffers loss by reliance on the information may recover damages for the loss from:

(1) a person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be false at the time the record was signed; and

(2) a general partner that has notice that the information was false when the record was filed or has become false because of changed circumstances, if the general partner has notice for a reasonably sufficient time before the information is relied upon to enable the general partner to effect an amendment pursuant to Section

202 of the Uniform Revised Limited Partnership Act, file a petition pursuant to Section 205 of that act or deliver to the secretary of state for filing a statement of correction pursuant to Section 207 of that act or a revised application for a certificate of authority to transact business in this state pursuant to Section 906 of that act.

B. Signing a record authorized or required to be filed pursuant to the Uniform Revised Limited Partnership Act constitutes an affirmation under the penalties of perjury that the facts stated in the record are true.

## **Chapter 129 Section 209 Laws 2007**

### Section 209. CERTIFICATE OF EXISTENCE OR AUTHORIZATION.--

A. The secretary of state, upon request and payment of the requisite fee, shall furnish a certificate of existence for a limited partnership if the records filed in the office of the secretary of state show that the secretary of state has filed a certificate of limited partnership and has not filed a statement of termination. A certificate of existence shall state:

- (1) the limited partnership's name;
- (2) that it was duly formed pursuant to the laws of this state and the date of formation;
- (3) any identification number assigned by the secretary of state to the limited partnership;
- (4) whether all fees and penalties due to the secretary of state pursuant to the Uniform Revised Limited Partnership Act or other law have been paid;
- (5) whether the secretary of state has administratively dissolved the limited partnership;
- (6) whether the limited partnership's certificate of limited partnership has been amended to state that the limited partnership is dissolved;
- (7) that a statement of termination has not been filed by the secretary of state; and
- (8) other facts of record in the office of the secretary of state, which may be requested by the applicant.

B. The secretary of state, upon request and payment of the requisite fee, shall furnish a certificate of authorization for a foreign limited partnership if the records filed in the office of the secretary of state show that the secretary of state has filed a certificate

of authorization, has not revoked the certificate of authorization and has not filed a notice of cancellation. A certificate of authorization shall state:

(1) the foreign limited partnership's name and any alternate name adopted pursuant to Subsection A of Section 905 of the Uniform Revised Limited Partnership Act for use in this state;

(2) any identification number assigned by the secretary of state to the foreign limited partnership;

(3) that it is authorized to transact business in this state;

(4) whether all fees and penalties due to the secretary of state pursuant to the Uniform Revised Limited Partnership Act or other law have been paid;

(5) that the secretary of state has not revoked its certificate of authorization and has not filed a notice of cancellation; and

(6) other facts of record in the office of the secretary of state, which may be requested by the applicant.

C. Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the secretary of state may be relied upon as conclusive evidence that the limited partnership or foreign limited partnership is in existence or is authorized to transact business in this state.

## **Chapter 129 Section 210 Laws 2007**

### **Section 210. SECRETARY OF STATE FEES.--**

A. The secretary of state shall charge and collect a fee as follows:

(1) filing an initial, amended and restated, or restated certificate of limited partnership, a fee of one hundred dollars (\$100);

(2) filing an application for a certificate of authority by a foreign limited partnership, articles of conversion or articles of merger, a fee of one hundred dollars (\$100);

(3) filing any other record, a fee of fifty dollars (\$50.00);

(4) furnishing copies of records, a fee of one dollar (\$1.00) per page, but in no case less than ten dollars (\$10.00), and a fee of twenty-five dollars (\$25.00) for certifying the copies, if certified copies are furnished;

(5) issuing any other certificate, a fee of fifty dollars (\$50.00); and

(6) service of process or of a notice or demand on the secretary of state, a fee of fifty dollars (\$50.00).

B. The secretary of state may adopt a schedule of fees for providing the following services:

(1) an expedited service;

(2) upon the adoption of rules authorizing their use, the handling of credit or debit cards or other means of payment for which sufficient funds are not on deposit; and

(3) other services for which no fee is established by law.

### ARTICLE 3 LIMITED PARTNERS

#### **Chapter 129 Section 301 Laws 2007**

Section 301. BECOMING LIMITED PARTNER.--A person becomes a limited partner:

A. as provided in the partnership agreement;

B. as the result of a conversion or merger pursuant to Article 11 of the Uniform Revised Limited Partnership Act; or

C. with the consent of all the partners.

#### **Chapter 129 Section 302 Laws 2007**

Section 302. NO RIGHT OR POWER AS LIMITED PARTNER TO BIND LIMITED PARTNERSHIP.--A limited partner does not have the right or the power as a limited partner to act for or bind the limited partnership.

#### **Chapter 129 Section 303 Laws 2007**

Section 303. NO LIABILITY AS LIMITED PARTNER FOR LIMITED PARTNERSHIP OBLIGATIONS.--An obligation of a limited partnership, whether arising in contract, tort or otherwise is not the obligation of a limited partner. A limited partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for an obligation of the limited partnership solely by reason of being a limited partner, even if the limited partner participates in the management and control of the limited partnership.

#### **Chapter 129 Section 304 Laws 2007**

Section 304. RIGHT OF LIMITED PARTNER AND FORMER LIMITED PARTNER TO INFORMATION.--

A. On ten days' demand, made in a record received by the limited partnership, a limited partner may inspect and copy required information during regular business hours in the limited partnership's designated office. The limited partner need not have any particular purpose for seeking the information.

B. During regular business hours and at a reasonable location specified by the limited partnership, a limited partner may obtain from the limited partnership and inspect and copy true and full information regarding the state of the activities and financial condition of the limited partnership and other information regarding the activities of the limited partnership as is just and reasonable if:

(1) the limited partner seeks the information for a purpose reasonably related to the partner's interest as a limited partner;

(2) the limited partner makes a demand in a record received by the limited partnership, describing with reasonable particularity the information sought and the purpose for seeking the information; and

(3) the information sought is directly connected to the limited partner's purpose.

C. Within ten days after receiving a demand pursuant to Subsection B of this section, the limited partnership in a record shall inform the limited partner that made the demand:

(1) what information the limited partnership will provide in response to the demand;

(2) when and where the limited partnership will provide the information; and

(3) if the limited partnership declines to provide any demanded information, the limited partnership's reasons for declining.

D. Subject to Subsection F of this section, a person dissociated as a limited partner may inspect and copy required information during regular business hours in the limited partnership's designated office if:

(1) the information pertains to the period during which the person was a limited partner;

(2) the person seeks the information in good faith; and

(3) the person meets the requirements of Subsection B of this section.

E. The limited partnership shall respond to a demand made pursuant to Subsection D of this section in the same manner as provided in Subsection C of this section.

F. If a limited partner dies, Section 704 of the Uniform Revised Limited Partnership Act applies.

G. The limited partnership may impose reasonable restrictions on the use of information obtained pursuant to this section. In a dispute concerning the reasonableness of a restriction pursuant to this subsection, the limited partnership has the burden of proving reasonableness.

H. A limited partnership may charge a person that makes a demand pursuant to this section reasonable costs of copying, limited to the costs of labor and material.

I. Whenever the Uniform Revised Limited Partnership Act or a partnership agreement provides for a limited partner to give or withhold consent to a matter, before the consent is given or withheld, the limited partnership shall, without demand, provide the limited partner with all information material to the limited partner's decision that the limited partnership knows.

J. A limited partner or person dissociated as a limited partner may exercise the rights pursuant to this section through an attorney or other agent. Any restriction imposed pursuant to Subsection G of this section or by the partnership agreement applies both to the attorney or other agent and to the limited partner or person dissociated as a limited partner.

K. The rights stated in this section do not extend to a person as transferee, but may be exercised by the legal representative of an individual under legal disability who is a limited partner or person dissociated as a limited partner.

## **Chapter 129 Section 305 Laws 2007**

### **Section 305. LIMITED DUTIES OF LIMITED PARTNERS.--**

A. A limited partner does not have any fiduciary duty to the limited partnership or to any other partner solely by reason of being a limited partner.

B. A limited partner shall discharge the duties to the partnership and the other partners pursuant to the Uniform Revised Limited Partnership Act or pursuant to the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

C. A limited partner does not violate a duty or obligation pursuant to the Uniform Revised Limited Partnership Act or pursuant to the partnership agreement merely because the limited partner's conduct furthers the limited partner's own interest.

## **Chapter 129 Section 306 Laws 2007**

Section 306. PERSON ERRONEOUSLY BELIEVING SELF TO BE LIMITED PARTNER.--

A. Except as otherwise provided in Subsection B of this section, a person that makes an investment in a business enterprise and erroneously but in good faith believes that the person has become a limited partner in the enterprise is not liable for the enterprise's obligations by reason of making the investment, receiving distributions from the enterprise or exercising any rights of or appropriate to a limited partner, if, on ascertaining the mistake, the person:

(1) causes an appropriate certificate of limited partnership, amendment or statement of correction to be signed and delivered to the secretary of state for filing; or

(2) withdraws from future participation as an owner in the enterprise by signing and delivering to the secretary of state for filing a statement of withdrawal pursuant to this section.

B. A person that makes an investment described in Subsection A of this section is liable to the same extent as a general partner to any third party that enters into a transaction with the enterprise, believing in good faith that the person is a general partner, before the secretary of state files a statement of withdrawal, certificate of limited partnership, amendment or statement of correction to show that the person is not a general partner.

C. If a person makes a diligent effort in good faith to comply with Paragraph (1) of Subsection A of this section and is unable to cause the appropriate certificate of limited partnership, amendment or statement of correction to be signed and delivered to the secretary of state for filing, the person has the right to withdraw from the enterprise pursuant to Paragraph (2) of Subsection A of this section even if the withdrawal would otherwise breach an agreement with others that are or have agreed to become co-owners of the enterprise.

ARTICLE 4  
GENERAL PARTNERS

## **Chapter 129 Section 401 Laws 2007**

Section 401. BECOMING GENERAL PARTNER.--A person becomes a general partner:

A. as provided in the partnership agreement;

B. pursuant to Paragraph (2) of Subsection C of Section 801 of the Uniform Revised Limited Partnership Act following the dissociation of a limited partnership's last general partner;

C. as the result of a conversion or merger pursuant to Article 11 of the Uniform Revised Limited Partnership Act; or

D. with the consent of all the partners.

## **Chapter 129 Section 402 Laws 2007**

### Section 402. GENERAL PARTNER AGENT OF LIMITED PARTNERSHIP.--

A. Each general partner is an agent of the limited partnership for the purposes of its activities. An act of a general partner, including the signing of a record in the partnership's name, for apparently carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership binds the limited partnership, unless the general partner did not have authority to act for the limited partnership in the particular matter and the person with which the general partner was dealing knew, had received a notification or had notice pursuant to Subsection D of Section 103 of the Uniform Revised Limited Partnership Act that the general partner lacked authority.

B. An act of a general partner that is not apparently for carrying on in the ordinary course the limited partnership's activities or activities of the kind carried on by the limited partnership binds the limited partnership only if the act was actually authorized by all the other partners.

## **Chapter 129 Section 403 Laws 2007**

### Section 403. LIMITED PARTNERSHIP LIABLE FOR GENERAL PARTNER'S ACTIONABLE CONDUCT.--

A. A limited partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a general partner acting in the ordinary course of activities of the limited partnership or with authority of the limited partnership.

B. If, in the course of the limited partnership's activities or while acting with authority of the limited partnership, a general partner receives or causes the limited partnership to receive money or property of a person not a partner, and the money or property is misapplied by a general partner, the limited partnership is liable for the loss.

## **Chapter 129 Section 404 Laws 2007**

#### Section 404. GENERAL PARTNER'S LIABILITY.--

A. Except as otherwise provided in Subsections B and C of this section, all general partners are liable jointly and severally for all obligations of the limited partnership unless otherwise agreed by the claimant or provided by law.

B. A person that becomes a general partner of an existing limited partnership is not personally liable for an obligation of a limited partnership incurred before the person became a general partner.

C. An obligation of a limited partnership incurred while the limited partnership is a limited liability limited partnership, whether arising in contract, tort or otherwise is solely the obligation of the limited partnership. A general partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for such an obligation solely by reason of being or acting as a general partner. This subsection applies despite anything inconsistent in the partnership agreement that existed immediately before the consent required to become a limited liability limited partnership pursuant to Paragraph (2) of Subsection B of Section 406 of the Uniform Revised Limited Partnership Act.

### **Chapter 129 Section 405 Laws 2007**

#### Section 405. ACTIONS BY AND AGAINST PARTNERSHIP AND PARTNERS.--

A. To the extent not inconsistent with Section 404 of the Uniform Revised Limited Partnership Act, a general partner may be joined in an action against the limited partnership or named in a separate action.

B. A judgment against a limited partnership is not by itself a judgment against a general partner. A judgment against a limited partnership shall not be satisfied from a general partner's assets unless there is also a judgment against the general partner.

C. A judgment creditor of a general partner shall not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the limited partnership, unless the partner is personally liable for the claim pursuant to Section 404 of the Uniform Revised Limited Partnership Act and:

(1) a judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(2) the limited partnership is a debtor in bankruptcy;

(3) the general partner has agreed that the creditor need not exhaust limited partnership assets;

(4) a court grants permission to the judgment creditor to levy execution against the assets of a general partner based on a finding that limited partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of limited partnership assets is excessively burdensome or that the grant of permission is an appropriate exercise of the court's equitable powers; or

(5) liability is imposed on the general partner by law or contract independent of the existence of the limited partnership.

## **Chapter 129 Section 406 Laws 2007**

### Section 406. MANAGEMENT RIGHTS OF GENERAL PARTNER.--

A. Each general partner has equal rights in the management and conduct of the limited partnership's activities. Except as expressly provided in the Uniform Revised Limited Partnership Act, any matter relating to the activities of the limited partnership may be exclusively decided by the general partner or, if there is more than one general partner, by a majority of the general partners.

B. The consent of each partner is necessary to:

(1) amend the partnership agreement; and

(2) sell, lease, exchange or otherwise dispose of all, or substantially all, of the limited partnership's property, with or without the goodwill, other than in the usual and regular course of the limited partnership's activities.

C. A limited partnership shall reimburse a general partner for payments made and indemnify a general partner for liabilities incurred by the general partner in the ordinary course of the activities of the partnership or for the preservation of its activities or property.

D. A limited partnership shall reimburse a general partner for an advance to the limited partnership beyond the amount of capital the general partner agreed to contribute.

E. A payment or advance made by a general partner that gives rise to an obligation of the limited partnership pursuant to Subsection C or D of this section constitutes a loan to the limited partnership, which accrues interest from the date of the payment or advance.

F. A general partner is not entitled to remuneration for services performed for the partnership.

## **Chapter 129 Section 407 Laws 2007**

Section 407. RIGHT OF GENERAL PARTNER AND FORMER GENERAL PARTNER TO INFORMATION.--

A. A general partner, without having any particular purpose for seeking the information, may inspect and copy during regular business hours:

(1) in the limited partnership's designated office, required information; and

(2) at a reasonable location specified by the limited partnership, any other records maintained by the limited partnership regarding the limited partnership's activities and financial condition.

B. Each general partner and the limited partnership shall furnish to a general partner:

(1) without demand, any information concerning the limited partnership's activities and activities reasonably required for the proper exercise of the general partner's rights and duties pursuant to the partnership agreement or the Uniform Revised Limited Partnership Act; and

(2) on demand, any other information concerning the limited partnership's activities, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

C. Subject to Subsection E of this section, on ten days' demand made in a record received by the limited partnership, a person dissociated as a general partner may have access to the information and records described in Subsection A of this section at the location specified in Subsection A of this section if:

(1) the information or record pertains to the period during which the person was a general partner;

(2) the person seeks the information or record in good faith; and

(3) the person satisfies the requirements imposed on a limited partner by Subsection B of Section 304 of the Uniform Revised Limited Partnership Act.

D. The limited partnership shall respond to a demand made pursuant to Subsection C of this section in the same manner as provided in Subsection C of Section 304 of the Uniform Revised Limited Partnership Act.

E. If a general partner dies, Section 704 of the Uniform Revised Limited Partnership Act applies.

F. The limited partnership may impose reasonable restrictions on the use of information pursuant to this section. In any dispute concerning the reasonableness of a

restriction pursuant to this subsection, the limited partnership has the burden of proving reasonableness.

G. A limited partnership may charge a person dissociated as a general partner that makes a demand pursuant to this section reasonable costs of copying, limited to the costs of labor and material.

H. A general partner or person dissociated as a general partner may exercise the rights pursuant to this section through an attorney or other agent. Any restriction imposed pursuant to Subsection F of this section or by the partnership agreement applies both to the attorney or other agent and to the general partner or person dissociated as a general partner.

I. The rights pursuant to this section do not extend to a person as transferee, but the rights pursuant to Subsection C of this section of a person dissociated as a general partner may be exercised by the legal representative of an individual who dissociated as a general partner pursuant to Paragraph (2) or (3) of Subsection G of Section 603 of the Uniform Revised Limited Partnership Act.

## **Chapter 129 Section 408 Laws 2007**

### **Section 408. GENERAL STANDARDS OF GENERAL PARTNER'S CONDUCT.--**

A. The only fiduciary duties that a general partner has to the limited partnership and the other partners are the duties of loyalty and care pursuant to Subsections B and C of this section.

B. A general partner's duty of loyalty to the limited partnership and the other partners is limited to the following:

(1) to account to the limited partnership and hold as trustee for it any property, profit or benefit derived by the general partner in the conduct and winding up of the limited partnership's activities or derived from a use by the general partner of limited partnership property, including the appropriation of a limited partnership opportunity;

(2) to refrain from dealing with the limited partnership in the conduct or winding up of the limited partnership's activities as or on behalf of a party having an interest adverse to the limited partnership; and

(3) to refrain from competing with the limited partnership in the conduct or winding up of the limited partnership's activities.

C. A general partner's duty of care to the limited partnership and the other partners in the conduct and winding up of the limited partnership's activities is limited to

refraining from engaging in grossly negligent or reckless conduct, intentional misconduct or a knowing violation of law.

D. A general partner shall discharge the duties to the partnership and the other partners pursuant to the Uniform Revised Limited Partnership Act or pursuant to the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

E. A general partner does not violate a duty or obligation pursuant to the Uniform Revised Limited Partnership Act or pursuant to the partnership agreement merely because the general partner's conduct furthers the general partner's own interest.

## ARTICLE 5 CONTRIBUTIONS AND DISTRIBUTIONS

### **Chapter 129 Section 501 Laws 2007**

Section 501. FORM OF CONTRIBUTION.--A contribution of a partner may consist of tangible or intangible property or other benefit to the limited partnership, including money, services performed, promissory notes, other agreements to contribute cash or property and contracts for services to be performed.

### **Chapter 129 Section 502 Laws 2007**

#### Section 502. LIABILITY FOR CONTRIBUTION.--

A. A partner's obligation to contribute money or other property or other benefit to, or to perform services for, a limited partnership is not excused by the partner's death, disability or other inability to perform personally.

B. If a partner does not make a promised nonmonetary contribution, the partner is obligated at the option of the limited partnership to contribute money equal to that portion of the value, as stated in the required information, of the stated contribution that has not been made.

C. The obligation of a partner to make a contribution or return money or other property paid or distributed in violation of the Uniform Revised Limited Partnership Act may be compromised only by consent of all partners. A creditor of a limited partnership that extends credit or otherwise acts in reliance on an obligation described in Subsection A of this section, without notice of any compromise pursuant to this subsection, may enforce the original obligation.

### **Chapter 129 Section 503 Laws 2007**

Section 503. SHARING OF DISTRIBUTIONS.--A distribution by a limited partnership must be shared among the partners on the basis of the value, as stated in

the required records when the limited partnership decides to make the distribution, of the contributions the limited partnership has received from each partner.

### **Chapter 129 Section 504 Laws 2007**

Section 504. INTERIM DISTRIBUTIONS.--A partner does not have a right to any distribution before the dissolution and winding up of the limited partnership unless the limited partnership decides to make an interim distribution.

### **Chapter 129 Section 505 Laws 2007**

Section 505. NO DISTRIBUTION ON ACCOUNT OF DISSOCIATION.--A person does not have a right to receive a distribution on account of dissociation.

### **Chapter 129 Section 506 Laws 2007**

Section 506. DISTRIBUTION IN KIND.--A partner does not have a right to demand or receive any distribution from a limited partnership in any form other than cash. Subject to Subsection B of Section 809 of the Uniform Revised Limited Partnership Act, a limited partnership may distribute an asset in kind to the extent each partner receives a percentage of the asset equal to the partner's share of distributions.

### **Chapter 129 Section 507 Laws 2007**

Section 507. RIGHT TO DISTRIBUTION.--When a partner or transferee becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution. However, the limited partnership's obligation to make a distribution is subject to offset for any amount owed to the limited partnership by the partner or dissociated partner on whose account the distribution is made.

### **Chapter 129 Section 508 Laws 2007**

Section 508. LIMITATIONS ON DISTRIBUTION.--

A. A limited partnership may not make a distribution in violation of the partnership agreement.

B. A limited partnership may not make a distribution if after the distribution:

(1) the limited partnership would not be able to pay its debts as they become due in the ordinary course of the limited partnership's activities; or

(2) the limited partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the limited partnership were to

be dissolved, wound up and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up and termination of partners whose preferential rights are superior to those of persons receiving the distribution.

C. A limited partnership may base a determination that a distribution is not prohibited pursuant to Subsection B of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

D. Except as otherwise provided in Subsection G of this section, the effect of a distribution pursuant to Subsection B of this section is measured:

(1) in the case of distribution by purchase, redemption or other acquisition of a transferable interest in the limited partnership, as of the date money or other property is transferred or debt incurred by the limited partnership; and

(2) in all other cases, as of the date:

(a) the distribution is authorized, if the payment occurs within one hundred twenty days after that date; or

(b) the payment is made, if payment occurs more than one hundred twenty days after the distribution is authorized.

E. A limited partnership's indebtedness to a partner incurred by reason of a distribution made in accordance with this section is at parity with the limited partnership's indebtedness to its general, unsecured creditors.

F. A limited partnership's indebtedness, including indebtedness issued in connection with or as part of a distribution, is not considered a liability for purposes of Subsection B of this section if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could then be made to partners pursuant to this section.

G. If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.

## **Chapter 129 Section 509 Laws 2007**

### **Section 509. LIABILITY FOR IMPROPER DISTRIBUTIONS.--**

A. A general partner that consents to a distribution made in violation of Section 508 of the Uniform Revised Limited Partnership Act is personally liable to the limited partnership for the amount of the distribution that exceeds the amount that could have

been distributed without the violation if it is established that in consenting to the distribution, the general partner failed to comply with Section 408 of the Uniform Revised Limited Partnership Act.

B. A partner or transferee that received a distribution knowing that the distribution to that partner or transferee was made in violation of Section 508 of the Uniform Revised Limited Partnership Act is personally liable to the limited partnership but only to the extent that the distribution received by the partner or transferee exceeded the amount that could have been properly paid pursuant to Section 508 of that act.

C. A general partner against which an action is commenced pursuant to Subsection A of this section may:

(1) implead in the action any other person that is liable pursuant to Subsection A of this section and compel contribution from the person; and

(2) implead in the action any person that received a distribution in violation of Subsection B of this section and compel contribution from the person in the amount the person received in violation of Subsection B of this section.

D. An action pursuant to this section is barred if it is not commenced within two years after the distribution.

## ARTICLE 6 DISSOCIATION

### **Chapter 129 Section 601 Laws 2007**

#### Section 601. DISSOCIATION AS LIMITED PARTNER.--

A. A person does not have a right to dissociate as a limited partner before the termination of the limited partnership.

B. A person is dissociated from a limited partnership as a limited partner upon the occurrence of any of the following events:

(1) the limited partnership's having notice of the person's express will to withdraw as a limited partner or on a later date specified by the person;

(2) an event agreed to in the partnership agreement as causing the person's dissociation as a limited partner;

(3) the person's expulsion as a limited partner pursuant to the partnership agreement;

(4) the person's expulsion as a limited partner by the unanimous consent of the other partners if:

(a) it is unlawful to carry on the limited partnership's activities with the person as a limited partner;

(b) there has been a transfer of all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed;

(c) the person is a corporation and, within ninety days after the limited partnership notifies the person that it will be expelled as a limited partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

(d) the person is a limited liability company or partnership that has been dissolved and whose business is being wound up;

(5) on application by the limited partnership, the person's expulsion as a limited partner by judicial order because:

(a) the person engaged in wrongful conduct that adversely and materially affected the limited partnership's activities;

(b) the person willfully or persistently committed a material breach of the partnership agreement or of the obligation of good faith and fair dealing pursuant to Subsection B of Section 305 of the Uniform Revised Limited Partnership Act; or

(c) the person engaged in conduct relating to the limited partnership's activities that makes it not reasonably practicable to carry on the activities with the person as limited partner;

(6) in the case of a person who is an individual, the person's death;

(7) in the case of a person that is a trust or is acting as a limited partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee;

(8) in the case of a person that is an estate or is acting as a limited partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative;

(9) termination of a limited partner that is not an individual, partnership, limited liability company, corporation, trust or estate; or

(10) the limited partnership's participation in a conversion or merger pursuant to Article 11 of the Uniform Revised Limited Partnership Act, if the limited partnership:

(a) is not the converted or surviving entity; or

(b) is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a limited partner.

## **Chapter 129 Section 602 Laws 2007**

Section 602. EFFECT OF DISSOCIATION AS LIMITED PARTNER.--

A. Upon a person's dissociation as a limited partner:

(1) subject to Section 704 of the Uniform Revised Limited Partnership Act, the person does not have further rights as a limited partner;

(2) the person's obligation of good faith and fair dealing as a limited partner pursuant to Subsection B of Section 305 of the Uniform Revised Limited Partnership Act continues only as to matters arising and events occurring before the dissociation; and

(3) subject to Section 704 and Article 11 of the Uniform Revised Limited Partnership Act, any transferable interest owned by the person in the person's capacity as a limited partner immediately before dissociation is owned by the person as a mere transferee.

B. A person's dissociation as a limited partner does not of itself discharge the person from any obligation to the limited partnership or the other partners that the person incurred while a limited partner.

## **Chapter 129 Section 603 Laws 2007**

Section 603. DISSOCIATION AS GENERAL PARTNER.--A person is dissociated from a limited partnership as a general partner upon the occurrence of any of the following events:

A. the limited partnership's having notice of the person's express will to withdraw as a general partner or on a later date specified by the person;

B. an event agreed to in the partnership agreement as causing the person's dissociation as a general partner;

C. the person's expulsion as a general partner pursuant to the partnership agreement;

D. the person's expulsion as a general partner by the unanimous consent of the other partners if:

(1) it is unlawful to carry on the limited partnership's activities with the person as a general partner;

(2) there has been a transfer of all or substantially all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed;

(3) the person is a corporation and, within ninety days after the limited partnership notifies the person that it will be expelled as a general partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

(4) the person is a limited liability company or partnership that has been dissolved and whose business is being wound up;

E. on application by the limited partnership, the person's expulsion as a general partner by judicial determination because:

(1) the person engaged in wrongful conduct that adversely and materially affected the limited partnership activities;

(2) the person willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners pursuant to Section 408 of the Uniform Revised Limited Partnership Act; or

(3) the person engaged in conduct relating to the limited partnership's activities that makes it not reasonably practicable to carry on the activities of the limited partnership with the person as a general partner;

F. the person's:

(1) becoming a debtor in bankruptcy;

(2) execution of an assignment for the benefit of creditors;

(3) seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator of the person or of all or substantially all of the person's property; or

(4) failure, within ninety days after the appointment, to have vacated or stayed the appointment of a trustee, receiver or liquidator of the general partner or of all or substantially all of the person's property obtained without the person's consent or acquiescence, or failing within ninety days after the expiration of a stay to have the appointment vacated;

G. in the case of a person who is an individual:

(1) the person's death;

(2) the appointment of a guardian or general conservator for the person; or

(3) a judicial determination that the person has otherwise become incapable of performing the person's duties as a general partner pursuant to the partnership agreement;

H. in the case of a person that is a trust or is acting as a general partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee;

I. in the case of a person that is an estate or is acting as a general partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative;

J. termination of a general partner that is not an individual, partnership, limited liability company, corporation, trust or estate; or

K. the limited partnership's participation in a conversion or merger pursuant to Article 11 of the Uniform Revised Limited Partnership Act, if the limited partnership:

(1) is not the converted or surviving entity; or

(2) is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a general partner.

## **Chapter 129 Section 604 Laws 2007**

Section 604. PERSON'S POWER TO DISSOCIATE AS GENERAL PARTNER--  
WRONGFUL DISSOCIATION.--

A. A person has the power to dissociate as a general partner at any time, rightfully or wrongfully, by express will pursuant to Subsection A of Section 603 of the Uniform Revised Limited Partnership Act.

B. A person's dissociation as a general partner is wrongful only if:

(1) it is in breach of an express provision of the partnership agreement; or

(2) it occurs before the termination of the limited partnership, and:

(a) the person withdraws as a general partner by express will;

(b) the person is expelled as a general partner by judicial determination pursuant to Subsection E of Section 603 of the Uniform Revised Limited Partnership Act;

(c) the person is dissociated as a general partner by becoming a debtor in bankruptcy; or

(d) in the case of a person that is not an individual, trust other than a business trust, or estate, the person is expelled or otherwise dissociated as a general partner because it willfully dissolved or terminated.

C. A person that wrongfully dissociates as a general partner is liable to the limited partnership and, subject to Section 1001 of the Uniform Revised Limited Partnership Act, to the other partners for damages caused by the dissociation. The liability is in addition to any other obligation of the general partner to the limited partnership or to the other partners.

## **Chapter 129 Section 605 Laws 2007**

Section 605. EFFECT OF DISSOCIATION AS GENERAL PARTNER.--

A. Upon a person's dissociation as a general partner:

(1) the person's right to participate as a general partner in the management and conduct of the partnership's activities terminates;

(2) the person's duty of loyalty as a general partner pursuant to Paragraph (3) of Subsection B of Section 408 of the Uniform Revised Limited Partnership Act terminates;

(3) the person's duty of loyalty as a general partner pursuant to Paragraphs (1) and (2) of Subsection B of Section 408 of the Uniform Revised Limited Partnership Act and duty of care pursuant to Subsection C of Section 408 of the

Uniform Revised Limited Partnership Act continue only with regard to matters arising and events occurring before the person's dissociation as a general partner;

(4) the person may sign and deliver to the secretary of state for filing a statement of dissociation pertaining to the person and, at the request of the limited partnership, shall sign an amendment to the certificate of limited partnership that states that the person has dissociated; and

(5) subject to Section 704 and Article 11 of the Uniform Revised Limited Partnership Act, any transferable interest owned by the person immediately before dissociation in the person's capacity as a general partner is owned by the person as a mere transferee.

B. A person's dissociation as a general partner does not of itself discharge the person from any obligation to the limited partnership or the other partners that the person incurred while a general partner.

## **Chapter 129 Section 606 Laws 2007**

Section 606. POWER TO BIND AND LIABILITY TO LIMITED PARTNERSHIP BEFORE DISSOLUTION OF PARTNERSHIP OF PERSON DISSOCIATED AS GENERAL PARTNER.--

A. After a person is dissociated as a general partner and before the limited partnership is dissolved, converted pursuant to Article 11 of the Uniform Revised Limited Partnership Act or merged out of existence pursuant to Article 11 of that act, the limited partnership is bound by an act of the person only if:

(1) the act would have bound the limited partnership pursuant to Section 402 of the Uniform Revised Limited Partnership Act before the dissociation; and

(2) at the time the other party enters into the transaction:

(a) less than two years has passed since the dissociation; and

(b) the other party does not have notice of the dissociation and reasonably believes that the person is a general partner.

B. If a limited partnership is bound pursuant to Subsection A of this section, the person dissociated as a general partner that caused the limited partnership to be bound is liable:

(1) to the limited partnership for any damage caused to the limited partnership arising from the obligation incurred pursuant to Subsection A of this section; and

(2) if a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

## **Chapter 129 Section 607 Laws 2007**

Section 607. LIABILITY TO OTHER PERSONS OF PERSON DISSOCIATED AS GENERAL PARTNER.--

A. A person's dissociation as a general partner does not of itself discharge the person's liability as a general partner for an obligation of the limited partnership incurred before dissociation. Except as otherwise provided in Subsections B and C of this section, the person is not liable for a limited partnership's obligation incurred after dissociation.

B. A person whose dissociation as a general partner resulted in a dissolution and winding up of the limited partnership's activities is liable to the same extent as a general partner pursuant to Section 404 of the Uniform Revised Limited Partnership Act on an obligation incurred by the limited partnership pursuant to Section 804 of the Uniform Revised Limited Partnership Act.

C. A person that has dissociated as a general partner but whose dissociation did not result in a dissolution and winding up of the limited partnership's activities is liable on a transaction entered into by the limited partnership after the dissociation only if:

(1) a general partner would be liable on the transaction; and

(2) at the time the other party enters into the transaction:

(a) less than two years has passed since the dissociation; and

(b) the other party does not have notice of the dissociation and reasonably believes that the person is a general partner.

D. By agreement with a creditor of a limited partnership and the limited partnership, a person dissociated as a general partner may be released from liability for an obligation of the limited partnership.

E. A person dissociated as a general partner is released from liability for an obligation of the limited partnership if the limited partnership's creditor, with notice of the person's dissociation as a general partner but without the person's consent, agrees to a material alteration in the nature or time of payment of the obligation.

## **ARTICLE 7**

### **TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES AND CREDITORS**

## **Chapter 129 Section 701 Laws 2007**

Section 701. PARTNER'S TRANSFERABLE INTEREST.--The only interest of a partner that is transferable is the partner's transferable interest. A transferable interest is personal property.

## **Chapter 129 Section 702 Laws 2007**

Section 702. TRANSFER OF PARTNER'S TRANSFERABLE INTEREST.--

A. A transfer, in whole or in part, of a partner's transferable interest:

(1) is permissible;

(2) does not by itself cause the partner's dissociation or a dissolution and winding up of the limited partnership's activities; and

(3) does not, as against the other partners or the limited partnership, entitle the transferee to participate in the management or conduct of the limited partnership's activities, to require access to information concerning the limited partnership's transactions, except as otherwise provided in Subsection C of this section, or to inspect or copy the required information or the limited partnership's other records.

B. A transferee has a right to receive, in accordance with the transfer:

(1) distributions to which the transferor would otherwise be entitled; and

(2) upon the dissolution and winding up of the limited partnership's activities, the net amount otherwise distributable to the transferor.

C. In a dissolution and winding up, a transferee is entitled to an account of the limited partnership's transactions only from the date of dissolution.

D. Upon transfer, the transferor retains the rights of a partner other than the interest in distributions transferred and retains all duties and obligations of a partner.

E. A limited partnership need not give effect to a transferee's rights pursuant to this section until the limited partnership has notice of the transfer.

F. A transfer of a partner's transferable interest in the limited partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.

G. A transferee that becomes a partner with respect to a transferable interest is liable for the transferor's obligations pursuant to Sections 502 and 509 of the Uniform

Revised Limited Partnership Act. However, the transferee is not obligated for liabilities unknown to the transferee at the time the transferee became a partner.

## **Chapter 129 Section 703 Laws 2007**

Section 703. RIGHTS OF CREDITOR OF PARTNER OR TRANSFEREE.--

A. On application to a court of competent jurisdiction by any judgment creditor of a partner or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of a transferee. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts and inquiries the judgment debtor might have made or that the circumstances of the case may require to give effect to the charging order.

B. A charging order constitutes a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

C. At any time before foreclosure, an interest charged may be redeemed:

(1) by the judgment debtor;

(2) with property other than limited partnership property, by one or more of the other partners; or

(3) with limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.

D. The Uniform Revised Limited Partnership Act does not deprive any partner or transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.

E. This section provides the exclusive remedy by which a judgment creditor of a partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.

## **Chapter 129 Section 704 Laws 2007**

Section 704. POWER OF ESTATE OF DECEASED PARTNER.--If a partner dies, the deceased partner's personal representative or other legal representative may exercise the rights of a transferee as provided in Section 702 of the Uniform Revised Limited Partnership Act and, for the purposes of settling the estate, may exercise the rights of a current limited partner pursuant to Section 304 of the Uniform Revised Limited Partnership Act.

ARTICLE 8  
DISSOLUTION

**Chapter 129 Section 801 Laws 2007**

Section 801. NONJUDICIAL DISSOLUTION.--Except as otherwise provided in Section 802 of the Uniform Revised Limited Partnership Act, a limited partnership is dissolved, and its activities must be wound up, only upon the occurrence of any of the following:

A. the happening of an event specified in the partnership agreement;

B. the consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective;

C. after the dissociation of a person as a general partner:

(1) if the limited partnership has at least one remaining general partner, the consent to dissolve the limited partnership given within ninety days after the dissociation by partners owning a majority of the rights to receive distributions as partners at the time the consent is to be effective; or

(2) if the limited partnership does not have a remaining general partner, the passage of ninety days after the dissociation, unless before the end of the period:

(a) consent to continue the activities of the limited partnership and admit at least one general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and

(b) at least one person is admitted as a general partner in accordance with the consent; or

D. the passage of ninety days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one limited partner.

**Chapter 129 Section 802 Laws 2007**

Section 802. JUDICIAL DISSOLUTION.--On application by a partner, the district court may order dissolution of a limited partnership if it is not reasonably practicable to carry on the activities of the limited partnership in conformity with the partnership agreement.

**Chapter 129 Section 803 Laws 2007**

Section 803. WINDING UP.--

A. A limited partnership continues after dissolution only for the purpose of winding up its activities.

B. In winding up its activities, the limited partnership:

(1) may amend its certificate of limited partnership to state that the limited partnership is dissolved, preserve the limited partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal or administrative, transfer the limited partnership's property, settle disputes by mediation or arbitration, file a statement of termination as provided in Section 203 of the Uniform Revised Limited Partnership Act and perform other necessary acts; and

(2) shall discharge the limited partnership's liabilities, settle and close the limited partnership's activities and marshal and distribute the assets of the partnership.

C. If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities may be appointed by the consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective. A person appointed pursuant to this subsection:

(1) has the powers of a general partner pursuant to Section 804 of the Uniform Revised Limited Partnership Act; and

(2) shall promptly amend the certificate of limited partnership to state:

(a) that the limited partnership does not have a general partner;

(b) the name of the person that has been appointed to wind up the limited partnership; and

(c) the street and mailing address of the person.

D. On the application of any partner, the district court may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited partnership's activities, if:

(1) a limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to Subsection C of this section; or

(2) the applicant establishes other good cause.

## **Chapter 129 Section 804 Laws 2007**

Section 804. POWER OF GENERAL PARTNER AND PERSON DISSOCIATED AS GENERAL PARTNER TO BIND PARTNERSHIP AFTER DISSOLUTION.--

A. A limited partnership is bound by a general partner's act after dissolution that:

(1) is appropriate for winding up the limited partnership's activities; or

(2) would have bound the limited partnership pursuant to Section 402 of the Uniform Revised Limited Partnership Act before dissolution, if, at the time the other party enters into the transaction, the other party does not have notice of the dissolution.

B. A person dissociated as a general partner binds a limited partnership through an act occurring after dissolution if:

(1) at the time the other party enters into the transaction:

(a) less than two years has passed since the dissociation; and

(b) the other party does not have notice of the dissociation and reasonably believes that the person is a general partner; and

(2) the act:

(a) is appropriate for winding up the limited partnership's activities;

or

(b) would have bound the limited partnership pursuant to Section 402 of the Uniform Revised Limited Partnership Act before dissolution and at the time the other party enters into the transaction the other party does not have notice of the dissolution.

## **Chapter 129 Section 805 Laws 2007**

Section 805. LIABILITY AFTER DISSOLUTION OF GENERAL PARTNER AND PERSON DISSOCIATED AS GENERAL PARTNER TO LIMITED PARTNERSHIP, OTHER GENERAL PARTNERS AND PERSONS DISSOCIATED AS GENERAL PARTNER.--

A. If a general partner having knowledge of the dissolution causes a limited partnership to incur an obligation pursuant to Subsection A of Section 804 of the Uniform Revised Limited Partnership Act by an act that is not appropriate for winding up the partnership's activities, the general partner is liable:

(1) to the limited partnership for any damage caused to the limited partnership arising from the obligation; and

(2) if another general partner or a person dissociated as a general partner is liable for the obligation, to that other general partner or person for any damage caused to that other general partner or person arising from the liability.

B. If a person dissociated as a general partner causes a limited partnership to incur an obligation pursuant to Subsection B of Section 804 of the Uniform Revised Limited Partnership Act, the person is liable:

(1) to the limited partnership for any damage caused to the limited partnership arising from the obligation; and

(2) if a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

## **Chapter 129 Section 806 Laws 2007**

Section 806. KNOWN CLAIMS AGAINST DISSOLVED LIMITED PARTNERSHIP.--

A. A dissolved limited partnership may dispose of the known claims against it by following the procedure described in Subsection B of this section.

B. A dissolved limited partnership may notify its known claimants of the dissolution in a record. The notice shall:

(1) specify the information required to be included in a claim;

(2) provide a mailing address to which the claim is to be sent;

(3) state the deadline for receipt of the claim, which shall not be less than one hundred twenty days after the date the notice is received by the claimant;

(4) state that the claim will be barred if not received by the deadline; and

(5) unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner that is based on Section 404 of the Uniform Revised Limited Partnership Act.

C. A claim against a dissolved limited partnership is barred if the requirements of Subsection B of this section are met and:

(1) the claim is not received by the specified deadline; or

(2) in the case of a claim that is timely received but rejected by the dissolved limited partnership, the claimant does not commence an action to enforce the claim against the limited partnership within ninety days after the receipt of the notice of the rejection.

D. This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that is contingent on that date.

## **Chapter 129 Section 807 Laws 2007**

### **Section 807. OTHER CLAIMS AGAINST DISSOLVED LIMITED PARTNERSHIP.--**

A. A dissolved limited partnership may publish notice of its dissolution and request persons having claims against the limited partnership to present them in accordance with the notice.

B. The notice shall:

(1) be published at least once in a newspaper of general circulation in the county in which the dissolved limited partnership's principal office is located or, if it has none in this state, in the county in which the limited partnership's designated office is or was last located;

(2) describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent;

(3) state that a claim against the limited partnership is barred unless an action to enforce the claim is commenced within five years after publication of the notice; and

(4) unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner that is based on Section 404 of the Uniform Revised Limited Partnership Act.

C. If a dissolved limited partnership publishes a notice in accordance with Subsection B of this section, the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the dissolved limited partnership within five years after the publication date of the notice:

(1) a claimant that did not receive notice in a record pursuant to Section 806 of the Uniform Revised Limited Partnership Act;

(2) a claimant whose claim was timely sent to the dissolved limited partnership but not acted on; and

(3) a claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

D. A claim not barred pursuant to this section may be enforced:

(1) against the dissolved limited partnership, to the extent of its undistributed assets;

(2) if the assets have been distributed in liquidation, against a partner or transferee to the extent of that person's proportionate share of the claim or the limited partnership's assets distributed to the partner or transferee in liquidation, whichever is less, but a person's total liability for all claims pursuant to this paragraph does not exceed the total amount of assets distributed to the person as part of the winding up of the dissolved limited partnership; or

(3) against any person liable on the claim pursuant to Section 404 of the Uniform Revised Limited Partnership Act.

## **Chapter 129 Section 808 Laws 2007**

Section 808. LIABILITY OF GENERAL PARTNER AND PERSON DISSOCIATED AS GENERAL PARTNER WHEN CLAIM AGAINST LIMITED PARTNERSHIP BARRED.--If a claim against a dissolved limited partnership is barred pursuant to Section 806 or 807 of the Uniform Revised Limited Partnership Act, any corresponding claim pursuant to Section 404 of the Uniform Revised Limited Partnership Act is also barred.

## **Chapter 129 Section 809 Laws 2007**

Section 809. DISPOSITION OF ASSETS--WHEN CONTRIBUTIONS REQUIRED.--

A. In winding up a limited partnership's activities, the assets of the limited partnership, including the contributions required by this section, shall be applied to satisfy the limited partnership's obligations to creditors, including, to the extent permitted by law, partners that are creditors.

B. Any surplus remaining after the limited partnership complies with Subsection A of this section shall be paid in cash as a distribution.

C. If a limited partnership's assets are insufficient to satisfy all of its obligations pursuant to Subsection A of this section, with respect to each unsatisfied obligation

incurred when the limited partnership was not a limited liability limited partnership, the following rules apply:

(1) each person that was a general partner when the obligation was incurred and that has not been released from the obligation pursuant to Section 607 of the Uniform Revised Limited Partnership Act shall contribute to the limited partnership for the purpose of enabling the limited partnership to satisfy the obligation. The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred;

(2) if a person does not contribute the full amount required pursuant to Paragraph (1) of this subsection with respect to an unsatisfied obligation of the limited partnership, the other persons required to contribute by Paragraph (1) of this subsection on account of the obligation shall contribute the additional amount necessary to discharge the obligation. The additional contribution due from each of those other persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those other persons when the obligation was incurred; and

(3) if a person does not make the additional contribution required by Paragraph (2) of this subsection, further additional contributions are determined and due in the same manner as provided in that paragraph.

D. A person that makes an additional contribution pursuant to Paragraph (2) or (3) of Subsection C of this section may recover from any person whose failure to contribute pursuant to Paragraph (1) or (2) of Subsection C of this section necessitated the additional contribution. A person shall not recover pursuant to this subsection more than the amount additionally contributed. A person's liability pursuant to this subsection shall not exceed the amount the person failed to contribute.

E. The estate of a deceased individual is liable for the person's obligations pursuant to this section.

F. An assignee for the benefit of creditors of a limited partnership or a partner, or a person appointed by a court to represent creditors of a limited partnership or a partner, may enforce a person's obligation to contribute pursuant to Subsection C of this section.

## ARTICLE 9 FOREIGN LIMITED PARTNERSHIPS

### **Chapter 129 Section 901 Laws 2007**

Section 901. GOVERNING LAW.--

A. The laws of the state or other jurisdiction under which a foreign limited partnership is organized govern relations between the partners of the foreign limited partnership and between the partners and the foreign limited partnership and the liability of partners as partners for an obligation of the foreign limited partnership.

B. A foreign limited partnership may not be denied a certificate of authority by reason of any difference between the laws of the jurisdiction under which the foreign limited partnership is organized and the laws of this state.

C. A certificate of authority does not authorize a foreign limited partnership to engage in any business or exercise any power that a limited partnership may not engage in or exercise in this state.

## **Chapter 129 Section 902 Laws 2007**

### Section 902. APPLICATION FOR CERTIFICATE OF AUTHORITY.--

A. A foreign limited partnership may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing. The application must state:

(1) the name of the foreign limited partnership and, if the name does not comply with Section 108 of the Uniform Revised Limited Partnership Act, an alternate name adopted pursuant to Subsection A of Section 905 of the Uniform Revised Limited Partnership Act;

(2) the name of the state or other jurisdiction under whose law the foreign limited partnership is organized;

(3) any identification number issued to the foreign limited partnership by the foreign official; "foreign official" means the secretary of state or other official having custody of the foreign limited partnership's publicly filed records in the state or other jurisdiction under whose law the foreign limited partnership is organized;

(4) the street and mailing address of the foreign limited partnership's principal office and, if the laws of the jurisdiction under which the foreign limited partnership is organized require the foreign limited partnership to maintain an office in that jurisdiction, the street and mailing address of the required office;

(5) the name and street and mailing address of the foreign limited partnership's initial agent for service of process in this state;

(6) the name and street and mailing address of each of the foreign limited partnership's general partners; and

(7) whether the foreign limited partnership is a foreign limited liability limited partnership.

B. A foreign limited partnership shall deliver with the completed application:

(1) a certificate of existence or a record of similar import signed by the foreign official; and

(2) if the foreign official is located outside of the United States of America, a certified copy of the limited partnership certificate or a record of similar import showing that it was filed with the foreign official.

C. A certificate or a certified copy described in Subsection B of this section is a part of the application for all purposes. It shall be revised or corrected as required by Section 906 of the Uniform Revised Limited Partnership Act. If it does not use the English language and Arabic numbers, it shall be accompanied by a certified translation. A certification or a certification of a copy or a translation shall be dated within thirty days of its presentation to the secretary of state for filing. A certificate shall state the information listed in Subsection A of Section 209 of the Uniform Revised Limited Partnership Act or information of similar import.

## **Chapter 129 Section 903 Laws 2007**

Section 903. ACTIVITIES NOT CONSTITUTING TRANSACTING BUSINESS.--

A. Activities of a foreign limited partnership that do not constitute transacting business in this state within the meaning of Article 9 of the Uniform Revised Limited Partnership Act include:

(1) maintaining, defending and settling an action or proceeding, whether judicial, administrative, arbitration or mediation;

(2) holding meetings of its partners or carrying on any other activity concerning its internal affairs;

(3) maintaining accounts in financial institutions;

(4) maintaining offices or agencies for the transfer, exchange and registration of the foreign limited partnership's own securities or maintaining trustees or depositories with respect to those securities;

(5) selling through independent contractors;

(6) soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

(7) creating as borrower or lender or acquiring indebtedness, with or without mortgages or security interests in real or personal property;

(8) securing or collecting debts or foreclosing mortgages or other security interests in property securing the debts and holding, protecting and maintaining property so acquired;

(9) investing in or acquiring, in transactions outside New Mexico, royalties and other nonoperating mineral interests; and executing division orders, contracts of sale and other instruments incidental to the ownership of such nonoperating mineral interests;

(10) owning or controlling an interest in a corporation or other entity that transacts business in this state or is organized under the laws of this state;

(11) being a partner in a partnership, including a limited partnership, a limited liability partnership or a limited liability limited partnership, that transacts business in this state or is organized under the laws of this state;

(12) being a member or a manager of a limited liability company that transacts business in this state or is organized under the laws of this state;

(13) conducting an isolated transaction that is completed within thirty days and is not one in the course of similar transactions of a like manner; and

(14) transacting business in interstate commerce.

B. For purposes of Article 9 of the Uniform Revised Limited Partnership Act, the ownership in this state of income-producing real property or tangible personal property, other than property excluded pursuant to Subsection A of this section, constitutes transacting business in this state.

C. This section does not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation or regulation pursuant to any other law of this state.

## **Chapter 129 Section 904 Laws 2007**

Section 904. FILING OF CERTIFICATE OF AUTHORITY.--Unless the secretary of state determines that an application for a certificate of authority or a revised application for a certificate of authority does not comply with the filing requirements of the Uniform Revised Limited Partnership Act, the secretary of state, upon payment of all filing fees, shall file the application, prepare, sign and file a certificate of authority to transact business in this state or restated certificate of authority in the case of a revised application, and send a copy of the filed certificate, together with a receipt for the fees, to the foreign limited partnership or its representative.

## **Chapter 129 Section 905 Laws 2007**

Section 905. NONCOMPLYING NAME OF FOREIGN LIMITED PARTNERSHIP.-

A. A foreign limited partnership whose name does not comply with Section 108 of the Uniform Revised Limited Partnership Act shall not obtain a certificate of authority until it adopts, for the purpose of transacting business in this state, an alternate name that complies with Section 108 of that act. After obtaining a certificate of authority with an alternate name, a foreign limited partnership shall transact business in this state under the name.

B. If a foreign limited partnership authorized to transact business in this state changes its name to one that does not comply with Section 108 of the Uniform Revised Limited Partnership Act, it shall not thereafter transact business in this state until it complies with Subsection A of this section and obtains an amended certificate of authority.

## **Chapter 129 Section 906 Laws 2007**

Section 906. CHANGES OR ERRORS IN APPLICATION FOR CERTIFICATE OF AUTHORITY.--

A. A foreign limited partnership shall deliver to the secretary of state for filing:

(1) a revised application for a certificate of authority to reflect any change in the information contained in an application for certificate of authority; or

(2) a statement of correction pursuant to Section 207 of the Uniform Revised Limited Partnership Act for the correction of any information that was false or incorrect or of any defective signature on the application. The revised application for a certificate of authority or statement of correction shall be delivered to the secretary of state promptly after the foreign limited partnership has notice of the change, the false or incorrect information or the defective signature.

B. The revised application for certificate of authority shall state:

(1) the name of the foreign limited partnership;

(2) the date of filing of its initial application for a certificate;

(3) any identification number assigned by the secretary of state to the foreign limited partnership or the initial application, or both; and

(4) the information required in Section 902 of the Uniform Revised Limited Partnership Act for an application for a certificate of authority.

C. A general partner that knows that any information in a filed application for certificate of authority was false when filed or has become false due to changed circumstances shall promptly:

(1) cause a revised application to be filed; or

(2) if appropriate, deliver to the secretary of state for filing a statement of correction pursuant to Section 207 of the Uniform Revised Limited Partnership Act.

## **Chapter 129 Section 907 Laws 2007**

Section 907. CANCELLATION OF CERTIFICATE OF AUTHORITY--EFFECT OF FAILURE TO HAVE CERTIFICATE.--

A. In order to cancel its certificate of authority to transact business in this state, a foreign limited partnership shall deliver to the secretary of state for filing a notice of cancellation. The certificate is canceled when the notice becomes effective pursuant to Section 206 of the Uniform Revised Limited Partnership Act.

B. A foreign limited partnership transacting business in this state shall not maintain an action or proceeding in this state unless it has a certificate of authority to transact business in this state.

C. The failure of a foreign limited partnership to have a certificate of authority to transact business in this state does not impair the validity of a contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending an action or proceeding in this state.

D. A partner of a foreign limited partnership is not liable for the obligations of the foreign limited partnership solely by reason of the foreign limited partnership's having transacted business in this state without a certificate of authority.

E. If a foreign limited partnership transacts business in this state without a certificate of authority, cancels its certificate of authority or fails to appoint and maintain an agent for service of process as required by Subsection B of Section 114 of the Uniform Revised Limited Partnership Act, it appoints the secretary of state as its agent for service of process for rights of action arising out of the transaction of business in this state.

## **Chapter 129 Section 908 Laws 2007**

Section 908. ACTION BY ATTORNEY GENERAL.--The attorney general may maintain an action to restrain a foreign limited partnership from transacting business in this state in violation of Article 9 of the Uniform Revised Limited Partnership Act.

ARTICLE 10  
ACTIONS BY PARTNERS

**Chapter 129 Section 1001 Laws 2007**

Section 1001. DIRECT ACTION BY PARTNER.--

A. Subject to Subsection B of this section, a partner may maintain a direct action against the limited partnership or another partner for legal or equitable relief, with or without an accounting as to the partnership's activities, to enforce the rights and otherwise protect the interests of the partner, including rights and interests pursuant to the partnership agreement or the Uniform Revised Limited Partnership Act, or arising independently of the partnership relationship.

B. A partner commencing a direct action pursuant to this section is required to plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited partnership.

C. The accrual of, and any time limitation on, a right of action for a remedy pursuant to this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

**Chapter 129 Section 1002 Laws 2007**

Section 1002. DERIVATIVE ACTION.--A partner may maintain a derivative action to enforce a right of a limited partnership if:

A. the partner first makes a demand on the general partners, requesting that they cause the limited partnership to bring an action to enforce the right, and the general partners do not bring the action within a reasonable time; or

B. a demand would be futile.

**Chapter 129 Section 1003 Laws 2007**

Section 1003. PROPER PLAINTIFF.--A derivative action may be maintained only by a person that is a partner at the time the action is commenced and:

A. that was a partner when the conduct giving rise to the action occurred; or

B. whose status as a partner devolved upon the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of the conduct.

**Chapter 129 Section 1004 Laws 2007**

Section 1004. PLEADING.--In a derivative action, the complaint must state with particularity:

A. the date and content of plaintiff's demand and the general partners' response to the demand; or

B. why demand should be excused as futile.

## **Chapter 129 Section 1005 Laws 2007**

Section 1005. PROCEEDS AND EXPENSES.--

A. Except as otherwise provided in Subsection B of this section:

(1) any proceeds or other benefits of a derivative action, whether by judgment, compromise or settlement, belong to the limited partnership and not to the derivative plaintiff; and

(2) if the derivative plaintiff receives any proceeds, the derivative plaintiff shall immediately remit them to the limited partnership.

B. If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney fees, from the recovery of the limited partnership.

## **ARTICLE 11 CONVERSION AND MERGER**

## **Chapter 129 Section 1101 Laws 2007**

Section 1101. DEFINITIONS.--As used in Article 11 of the Uniform Revised Limited Partnership Act:

A. "constituent limited partnership" means a constituent organization that is a limited partnership;

B. "constituent organization" means an organization that is party to a merger;

C. "converted organization" means the organization into which a converting organization converts pursuant to Sections 1102 through 1105 of the Uniform Revised Limited Partnership Act;

D. "converting limited partnership" means a converting organization that is a limited partnership;

E. "converting organization" means an organization that converts into another organization pursuant to Section 1102 of the Uniform Revised Limited Partnership Act;

F. "general partner" means a general partner of a limited partnership;

G. "governing statute" of an organization means the statute that governs the organization's internal affairs;

H. "organization" means a general partnership, including a limited liability partnership; limited partnership, including a limited liability limited partnership; limited liability company; business trust; corporation; or any other person having a governing statute. "Organization" includes domestic and foreign organizations whether or not organized for profit;

I. "organizational documents" means:

(1) for a domestic or foreign general partnership, its partnership agreement;

(2) for a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement;

(3) for a domestic or foreign limited liability company, its articles of organization and operating agreement, or comparable records as provided in its governing statute;

(4) for a business trust, its agreement of trust and declaration of trust;

(5) for a domestic or foreign corporation for profit, its articles of incorporation, bylaws and other agreements among its shareholders that are authorized by its governing statute, or comparable records as provided in its governing statute; and

(6) for any other organization, the basic records that create the organization and determine its internal governance and the relations between the persons that own it, have an interest in it or are members of it;

J. "personal liability" means personal liability for a debt, liability or other obligation of an organization that is imposed on a person that co-owns, has an interest in or is a member of the organization:

(1) by the organization's governing statute solely by reason of the person co-owning, having an interest in, or being a member of the organization; or

(2) by the organization's organizational documents pursuant to a provision of the organization's governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, liabilities and other obligations of

the organization solely by reason of the person or persons co-owning, having an interest in or being a member of the organization; and

K. "surviving organization" means an organization into which one or more other organizations are merged. A surviving organization may preexist the merger or be created by the merger.

## **Chapter 129 Section 1102 Laws 2007**

### Section 1102. CONVERSION.--

A. An organization other than a limited partnership may convert to a limited partnership, and a limited partnership may convert to another organization pursuant to this section and Sections 1103 through 1105 of the Uniform Revised Limited Partnership Act and a plan of conversion, if:

- (1) the other organization's governing statute authorizes the conversion;
- (2) the conversion is not prohibited by the law of the jurisdiction that enacted the governing statute; and
- (3) the other organization complies with its governing statute in effecting the conversion.

B. A plan of conversion must be in a record and must include:

- (1) the name and form of the organization before conversion;
- (2) the name and form of the organization after conversion;
- (3) the terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of money, interests in the converted organization and other consideration; and
- (4) the organizational documents of the converted organization.

## **Chapter 129 Section 1103 Laws 2007**

### Section 1103. ACTION ON PLAN OF CONVERSION BY CONVERTING LIMITED PARTNERSHIP.--

A. Subject to Section 1110 of the Uniform Revised Limited Partnership Act, a plan of conversion must be consented to by all the partners of a converting limited partnership.

B. Subject to Section 1110 of the Uniform Revised Limited Partnership Act and any contractual rights, after a conversion is approved, and at any time before a filing is made pursuant to Section 1104 of the Uniform Revised Limited Partnership Act, a converting limited partnership may amend the plan or abandon the planned conversion:

(1) as provided in the plan; and

(2) except as prohibited by the plan, by the same consent as was required to approve the plan.

## **Chapter 129 Section 1104 Laws 2007**

Section 1104. FILINGS REQUIRED FOR CONVERSION--EFFECTIVE DATE.--

A. After a plan of conversion is approved:

(1) a converting limited partnership shall deliver to the secretary of state for filing articles of conversion that shall include:

(a) a statement that the limited partnership has been converted into another organization;

(b) the name and form of the organization and the jurisdiction of its governing statute;

(c) the date the conversion is effective pursuant to the governing statute of the converted organization;

(d) a statement that the conversion was approved as required by the Uniform Revised Limited Partnership Act;

(e) a statement that the conversion was approved as required by the governing statute of the converted organization; and

(f) if the converted organization is a foreign organization not authorized to transact business in this state, the street and mailing address of an office that the secretary of state may use for the purposes of Subsection C of Section 1105 of the Uniform Revised Limited Partnership Act; and

(2) if the converting organization is not a converting limited partnership, the converting organization shall deliver to the secretary of state for filing a certificate of limited partnership that shall include, in addition to the information required by Section 201 of the Uniform Revised Limited Partnership Act:

(a) a statement that the limited partnership was converted from another organization;

(b) the name and form of the organization and the jurisdiction of its governing statute; and

(c) a statement that the conversion was approved in a manner that complied with the organization's governing statute.

B. A conversion becomes effective:

(1) if the converted organization is a limited partnership, when the certificate of limited partnership takes effect; and

(2) if the converted organization is not a limited partnership, as provided by the governing statute of the converted organization.

## **Chapter 129 Section 1105 Laws 2007**

Section 1105. EFFECT OF CONVERSION.--

A. An organization that has been converted pursuant to Article 11 of the Uniform Revised Limited Partnership Act is for all purposes the same entity that existed before the conversion.

B. When a conversion takes effect:

(1) all property owned by the converting organization remains vested in the converted organization;

(2) all debts, liabilities and other obligations of the converting organization continue as obligations of the converted organization;

(3) an action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred;

(4) except as prohibited by other law, all of the rights, privileges, immunities, powers and purposes of the converting organization remain vested in the converted organization;

(5) except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect; and

(6) except as otherwise agreed, the conversion does not dissolve a converting limited partnership for the purposes of Article 8 of the Uniform Revised Limited Partnership Act.

C. A converted organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by the converting

limited partnership, if before the conversion the converting limited partnership was subject to suit in this state on the obligation. A converted organization that is a foreign organization and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for purposes of enforcing an obligation pursuant to this subsection. Service on the secretary of state pursuant to this subsection is made in the same manner and with the same consequences as in Subsections C and D of Section 117 of the Uniform Revised Limited Partnership Act.

## **Chapter 129 Section 1106 Laws 2007**

### Section 1106. MERGER.--

A. A limited partnership may merge with one or more other constituent organizations pursuant to this section and Sections 1107 through 1109 of the Uniform Revised Limited Partnership Act and a plan of merger, if:

(1) the governing statute of each of the other organizations authorizes the merger;

(2) the merger is not prohibited by the law of a jurisdiction that enacted any of those governing statutes; and

(3) each of the other organizations complies with its governing statute in effecting the merger.

B. A plan of merger shall be in a record and shall include:

(1) the name and form of each constituent organization;

(2) the name and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect;

(3) the terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organization into any combination of money, interests in the surviving organization and other consideration;

(4) if the surviving organization is to be created by the merger, the surviving organization's organizational documents; and

(5) if the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents.

## **Chapter 129 Section 1107 Laws 2007**

Section 1107. ACTION ON PLAN OF MERGER BY CONSTITUENT LIMITED PARTNERSHIP.--

A. Subject to Section 1110 of the Uniform Revised Limited Partnership Act, a plan of merger must be consented to by all the partners of a constituent limited partnership.

B. Subject to Section 1110 of the Uniform Revised Limited Partnership Act and any contractual rights, after a merger is approved, and at any time before a filing is made pursuant to Section 1108 of the Uniform Revised Limited Partnership Act, a constituent limited partnership may amend the plan or abandon the planned merger:

(1) as provided in the plan; and

(2) except as prohibited by the plan, with the same consent as was required to approve the plan.

## **Chapter 129 Section 1108 Laws 2007**

Section 1108. FILINGS REQUIRED FOR MERGER--EFFECTIVE DATE.--

A. After each constituent organization has approved a merger, articles of merger shall be signed on behalf of:

(1) each preexisting constituent limited partnership, by each general partner listed in the certificate of limited partnership; and

(2) each other preexisting constituent organization, by an authorized representative.

B. The articles of merger shall include:

(1) the name and form of each constituent organization and the jurisdiction of its governing statute;

(2) the name and form of the surviving organization, the jurisdiction of its governing statute and, if the surviving organization is created by the merger, a statement to that effect;

(3) the date the merger is effective pursuant to the governing statute of the surviving organization;

(4) if the surviving organization is to be created by the merger:

(a) if it will be a limited partnership, the limited partnership's certificate of limited partnership; or

(b) if it will be an organization other than a limited partnership, the organizational document that creates the organization;

(5) if the surviving organization preexists the merger, any amendments provided for in the plan of merger for the organizational document that created the organization;

(6) a statement as to each constituent organization that the merger was approved as required by the organization's governing statute;

(7) if the surviving organization is a foreign organization not authorized to transact business in this state, the street and mailing address of an office that the secretary of state may use for the purposes of Subsection B of Section 1109 of the Uniform Revised Limited Partnership Act; and

(8) any additional information required by the governing statute of any constituent organization.

C. Each constituent limited partnership shall deliver the articles of merger for filing in the office of the secretary of state.

D. A merger becomes effective pursuant to this article:

(1) if the surviving organization is a limited partnership, upon the later of:

(a) compliance with Subsection C of this section; or

(b) subject to Subsection C of Section 206 of the Uniform Revised Limited Partnership Act, as specified in the articles of merger; or

(2) if the surviving organization is not a limited partnership, as provided by the governing statute of the surviving organization.

## **Chapter 129 Section 1109 Laws 2007**

Section 1109. EFFECT OF MERGER.--

A. When a merger becomes effective:

(1) the surviving organization continues or comes into existence;

(2) each constituent organization that merges into the surviving organization ceases to exist as a separate entity;

(3) all property owned by each constituent organization that ceases to exist vests in the surviving organization;

(4) all debts, liabilities and other obligations of each constituent organization that ceases to exist continue as obligations of the surviving organization;

(5) an action or proceeding pending by or against any constituent organization that ceases to exist may be continued as if the merger had not occurred;

(6) except as prohibited by other law, all of the rights, privileges, immunities, powers and purposes of each constituent organization that ceases to exist vest in the surviving organization;

(7) except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect;

(8) except as otherwise agreed, if a constituent limited partnership ceases to exist, the merger does not dissolve the limited partnership for the purposes of Article 8 of the Uniform Revised Limited Partnership Act;

(9) if the surviving organization is created by the merger:

(a) if it is a limited partnership, the certificate of limited partnership becomes effective; or

(b) if it is an organization other than a limited partnership, the organizational document that creates the organization becomes effective; and

(10) if the surviving organization preexists the merger, any amendments provided for in the articles of merger for the organizational document that created the organization become effective.

B. A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by a constituent organization, if before the merger the constituent organization was subject to suit in this state on the obligation. A surviving organization that is a foreign organization and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for the purposes of enforcing an obligation pursuant to this subsection. Service on the secretary of state pursuant to this subsection is made in the same manner and with the same consequences as in Subsections C and D of Section 117 of the Uniform Revised Limited Partnership Act.

## **Chapter 129 Section 1110 Laws 2007**

Section 1110. RESTRICTIONS ON APPROVAL OF CONVERSIONS AND MERGERS.--

A. If a partner of a converting or constituent limited partnership will have personal liability with respect to a converted or surviving organization, approval and amendment

of a plan of conversion or merger are ineffective without the consent of the partner, unless:

(1) the limited partnership's partnership agreement provides for the approval of the conversion or merger with the consent of fewer than all the partners; and

(2) the partner has consented to the provision of the partnership agreement.

B. A partner does not give the consent required by Subsection A of this section merely by consenting to a provision of the partnership agreement that permits the partnership agreement to be amended with the consent of fewer than all the partners.

## **Chapter 129 Section 1111 Laws 2007**

Section 1111. LIABILITY OF GENERAL PARTNER AFTER CONVERSION OR MERGER.--

A. A conversion or merger pursuant to Article 11 of the Uniform Revised Limited Partnership Act does not discharge any liability, pursuant to Sections 404 and 607 of that act, of a person that was a general partner in or dissociated as a general partner from a converting or constituent limited partnership, but:

(1) the provisions of the Uniform Revised Limited Partnership Act pertaining to the collection or discharge of the liability continue to apply to the liability;

(2) for the purposes of applying those provisions, the converted or surviving organization is deemed to be the converting or constituent limited partnership; and

(3) if a person is required to pay any amount pursuant to this subsection:

(a) the person has a right of contribution from each other person that was liable as a general partner pursuant to Section 404 of the Uniform Revised Limited Partnership Act when the obligation was incurred and has not been released from the obligation pursuant to Section 607 of that act; and

(b) the contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.

B. In addition to any other liability provided by law:

(1) a person that immediately before a conversion or merger became effective was a general partner in a converting or constituent limited partnership that

was not a limited liability limited partnership is personally liable for each obligation of the converted or surviving organization arising from a transaction with a third party after the conversion or merger becomes effective, if, at the time the third party enters into the transaction, the third party:

(a) does not have notice of the conversion or merger; and

(b) reasonably believes that: 1) the converted or surviving business is the converting or constituent limited partnership; 2) the converting or constituent limited partnership is not a limited liability limited partnership; and 3) the person is a general partner in the converting or constituent limited partnership; and

(2) a person that was dissociated as a general partner from a converting or constituent limited partnership before the conversion or merger became effective is personally liable for each obligation of the converted or surviving organization arising from a transaction with a third party after the conversion or merger becomes effective, if:

(a) immediately before the conversion or merger became effective the converting or surviving limited partnership was not a limited liability limited partnership; and

(b) at the time the third party enters into the transaction less than two years have passed since the person dissociated as a general partner and the third party: 1) does not have notice of the dissociation; 2) does not have notice of the conversion or merger; and 3) reasonably believes that the converted or surviving organization is the converting or constituent limited partnership, the converting or constituent limited partnership is not a limited liability limited partnership and the person is a general partner in the converting or constituent limited partnership.

## **Chapter 129 Section 1112 Laws 2007**

Section 1112. POWER OF GENERAL PARTNERS AND PERSONS DISSOCIATED AS GENERAL PARTNERS TO BIND ORGANIZATION AFTER CONVERSION OR MERGER.--

A. An act of a person that immediately before a conversion or merger became effective was a general partner in a converting or constituent limited partnership binds the converted or surviving organization after the conversion or merger becomes effective, if:

(1) before the conversion or merger became effective, the act would have bound the converting or constituent limited partnership pursuant to Section 402 of the Uniform Revised Limited Partnership Act; and

(2) at the time the third party enters into the transaction, the third party:

(a) does not have notice of the conversion or merger; and

(b) reasonably believes that the converted or surviving business is the converting or constituent limited partnership and that the person is a general partner in the converting or constituent limited partnership.

B. An act of a person that before a conversion or merger became effective was dissociated as a general partner from a converting or constituent limited partnership binds the converted or surviving organization after the conversion or merger becomes effective, if:

(1) before the conversion or merger became effective, the act would have bound the converting or constituent limited partnership pursuant to Section 402 of the Uniform Revised Limited Partnership Act if the person had been a general partner; and

(2) at the time the third party enters into the transaction, less than two years have passed since the person dissociated as a general partner and the third party:

(a) does not have notice of the dissociation;

(b) does not have notice of the conversion or merger; and

(c) reasonably believes that the converted or surviving organization is the converting or constituent limited partnership and that the person is a general partner in the converting or constituent limited partnership.

C. If a person having knowledge of the conversion or merger causes a converted or surviving organization to incur an obligation pursuant to Subsection A or B of this section, the person is liable:

(1) to the converted or surviving organization for any damage caused to the organization arising from the obligation; and

(2) if another person is liable for the obligation, to that other person for any damage caused to that other person arising from the liability.

## **Chapter 129 Section 1113 Laws 2007**

Section 1113. ARTICLE NOT EXCLUSIVE.--Article 11 of the Uniform Revised Limited Partnership Act does not preclude an entity from being converted or merged pursuant to other law.

ARTICLE 12  
MISCELLANEOUS PROVISIONS

## **Chapter 129 Section 1201 Laws 2007**

Section 1201. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Uniform Revised Limited Partnership Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

## **Chapter 129 Section 1202 Laws 2007**

Section 1202. SEVERABILITY.--If any provision of the Uniform Revised Limited Partnership Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of that act that can be given effect without the invalid provision or application, and to this end the provisions of that act are severable.

## **Chapter 129 Section 1203 Laws 2007**

Section 1203. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Uniform Revised Limited Partnership Act modifies, limits or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but the Uniform Revised Limited Partnership Act does not modify, limit or supersede Section 101(c) of the federal Electronic Signatures in Global and National Commerce Act or authorize electronic delivery of any of the notices described in Section 103(b) of the federal Electronic Signatures in Global and National Commerce Act.

## **Chapter 129 Section 1204 Laws 2007**

Section 1204. APPLICATION TO EXISTING LIMITED PARTNERSHIPS AND OTHER RELATIONSHIPS.--

A. The Uniform Revised Limited Partnership Act governs only:

(1) a limited partnership formed on or after January 1, 2008; and

(2) except as otherwise provided in Subsections B and C of this section, a limited partnership formed before January 1, 2008 that elects, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be subject to the Uniform Revised Limited Partnership Act, and that presents to the secretary of state for filing:

(a) an amended and restated certificate of limited partnership stating that it elects to be subject to that act if the filing is made before January 1, 2009;  
or

(b) if the filing is made on or after January 1, 2009, an amended and restated certificate of limited partnership stating the information required by Section 201 of the Uniform Revised Limited Partnership Act. The "liability effective date" with respect to the limited partnership is the date that is ninety days after a limited partnership described in this paragraph files with the secretary of state an amended and restated certificate of limited partnership stating the information required by Section 201 of the Uniform Revised Limited Partnership Act.

B. With respect to a limited partnership formed before January 1, 2008 that elects pursuant to Paragraph (2) of Subsection A of this section to be subject to the Uniform Revised Limited Partnership Act, the following rules apply except as the partners otherwise elect in the manner provided in the partnership agreement or by law for amending the partnership agreement:

(1) Subsection C of Section 104 of the Uniform Revised Limited Partnership Act does not apply and the limited partnership has whatever duration it had pursuant to the law applicable immediately before January 1, 2008;

(2) Sections 601 and 602 of the Uniform Revised Limited Partnership Act do not apply and a limited partner has the same right and power to dissociate from the limited partnership, with the same consequences, as existed immediately before January 1, 2008;

(3) Subsection D of Section 603 of the Uniform Revised Limited Partnership Act does not apply;

(4) Subsection E of Section 603 of the Uniform Revised Limited Partnership Act does not apply and a court has the same power to expel a general partner as the court had immediately before January 1, 2008; and

(5) Subsection C of Section 801 of the Uniform Revised Limited Partnership Act does not apply and the connection between a person's dissociation as a general partner and the dissolution of the limited partnership is the same as existed immediately before January 1, 2008.

C. With respect to a limited partnership that elects pursuant to Paragraph (2) of Subsection A of this section to be subject to the Uniform Revised Limited Partnership Act, after the election takes effect the provisions of the Uniform Revised Limited Partnership Act relating to the liability of the limited partnership's general partners to third parties apply:

(1) before the liability effective date, to:

(a) a third party that had not done business with the limited partnership in the year before the election took effect; and

(b) a third party that had done business with the limited partnership in the year before the election took effect only if the third party knows or has received a notification of the election; and

(2) on and after the liability effective date, to all third parties, but those provisions remain inapplicable to any obligation incurred while those provisions were inapplicable pursuant to Subparagraph (b) of Paragraph (1) of this subsection.

D. Until a limited partnership formed before January 1, 2008 elects to be governed by the Uniform Revised Limited Partnership Act, the limited partnership shall continue to be governed by the provisions of the Uniform Limited Partnership Act under which the limited partnership was formed as if that act had not been repealed, except that the limited partnership shall not be renewed unless so provided in the original agreement or in the manner provided in its partnership agreement or by law for amending the partnership agreement.

E. After January 1, 2009, the Uniform Revised Limited Partnership Act governs a foreign limited partnership formed at any time.

F. Certificates of limited partnership filed with a county clerk before July 1, 1993 may be refiled with the secretary of state. Such a refiling supersedes the filing in the county clerk's office. Such a refiling without compliance with the provisions of Paragraph (2) of Subsection A of this section is not an election to be subject to the Uniform Revised Limited Partnership Act. Certificates of limited partnership not refiled with the secretary of state shall remain valid until expiration or until cancellation pursuant to a certificate of cancellation filed with the county clerk.

## **Chapter 129 Section 1205 Laws 2007**

Section 1205. SAVING CLAUSE.--The Uniform Revised Limited Partnership Act does not affect an action commenced, proceeding brought or right accrued before January 1, 2008.

## **Chapter 129 Section 1206 Laws 2007**

Section 1206. REPEAL.--Effective January 1, 2009, Sections 54-2-1 through 54-2-63 NMSA 1978 (being Laws 1988, Chapter 90, Sections 1 through 48, Laws 1979, Chapter 85, Sections 1 through 8 and Laws 1988, Chapter 90, Sections 57 through 63, as amended) are repealed.

## **Chapter 129 Section 1207 Laws 2007**

Section 1207. TRANSITION PROVISIONS.--Until January 1, 2009, the provisions of Sections 54-1A-105, 54-1A-303, 54-1A-304, 54-1A-704, 54-1A-805, 54-1A-901 through 54-1A-908, 54-2-3 through 54-2-5, 54-2-9 through 54-2-14, 54-2-49 through 54-2-56 and 54-2-62 NMSA 1978 apply to a limited partnership formed on or

after July 1, 2008; to a limited partnership formed before July 1, 2008 that elects pursuant to the provisions of Paragraph (2) of Subsection A of Section 1204 of the Uniform Revised Limited Partnership Act to be subject to that act; and to a foreign limited partnership formed at any time.

## **Chapter 129 Section 1208 Laws 2007**

Section 1208. EFFECTIVE DATES.--

A. Except as provided in Subsections B and C of this section, the effective date of the provisions of this act is January 1, 2008.

B. The effective date of the provisions of Sections 108, 109, 114 through 117, 201 through 210, 901, 902, 904 through 908 and 1101 through 1113 of this act is July 1, 2009.

C. The effective date of the provisions of Section 903 of this act is July 1, 2007.

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House Bill 184

Approved April 2, 2007

## **LAWS 2007, CHAPTER 130**

AN ACT

RELATING TO PUBLIC FINANCES; INCREASING THE TIME WITHIN WHICH CERTAIN MUNICIPALITIES MAY DEPOSIT RECEIPTS OF PUBLIC MONEY.

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

### **Chapter 130 Section 1 Laws 2007**

Section 1. Section 6-10-36.1 NMSA 1978 (being Laws 1997, Chapter 161, Section 1) is amended to read:

"6-10-36.1. RECEIPTS OF PUBLIC MONEY--DISPOSITION BY CERTAIN MUNICIPALITIES.--A municipality or village having within its boundaries no suitable banking facility in which to deposit collected receipts of public money shall deposit receipts within a period not to exceed five days from the date of collection, except when inclement weather or natural disaster conditions exist, in which case the period is extended to ten days; provided the municipality or village adopts a reasonable administrative policy approved by the local government division of the department of

finance and administration establishing procedures for the safeguarding of the public funds prior to deposit."

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House Bill 194, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 131**

AN ACT

RELATING TO DOMESTIC ABUSE; PROVIDING FOR A SUBSTITUTE ADDRESS FOR A VICTIM OF DOMESTIC ABUSE.

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

### **Chapter 131 Section 1 Laws 2007**

Section 1. A new section of the Family Violence Protection Act is enacted to read:

"SUBSTITUTE ADDRESS.--

A. A victim of domestic abuse, or the victim's representative pursuant to Section 31-26-3 NMSA 1978, who has good reason to believe that the victim's safety is at risk may apply to the secretary of state for the use of the secretary of state as a substitute address. The application shall be on a form provided by the secretary of state and shall include:

(1) a statement that the secretary of state is acting as an agent of the victim for purposes of the forwarding of mail;

(2) a mailing address for forwarding received mail and a telephone number where the victim can be contacted by the secretary of state;

(3) payment of a seventy-five-dollar (\$75.00) application fee, which may be waived if the applicant is indigent; and

(4) the signature of the victim or the victim's representative.

B. The secretary of state shall maintain a confidential record of applications for a substitute address and forward any mail received on behalf of a victim of domestic abuse to the new mailing address provided on the application."

## **Chapter 131 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 216

Approved April 2, 2007

## **LAWS 2007, CHAPTER 132**

AN ACT

RELATING TO MUNICIPALITIES; AMENDING SECTION 3-17-6 NMSA 1978 (BEING LAWS 1965, CHAPTER 300, SECTION 14-16-5) PROVIDING FOR ADOPTION OF CODES.

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

## **Chapter 132 Section 1 Laws 2007**

Section 1. Section 3-17-6 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-16-5) is amended to read:

"3-17-6. CODES ADOPTED AND ENFORCED BY REFERENCE--  
AVAILABILITY.--

A. A municipality may adopt by ordinance the conditions, provisions, limitations and terms of:

- (1) an administrative code;
- (2) an air pollution code;
- (3) a building code that includes provisions for plan review, permitting and inspections for general, electrical, mechanical and plumbing construction;
- (4) an elevator code;
- (5) a fire prevention code;
- (6) a health code;

(7) housing code;

(8) a traffic code; or

(9) any other code not in conflict with the laws of New Mexico or valid regulations issued by any board or agency of New Mexico authorized to issue regulations.

Any code so adopted shall provide for minimum requirements at least equal to the state requirements on the same subject.

B. An ordinance adopting any such code need only refer to the proper title and date of the code, without setting forth the code's conditions, provisions, limitations and terms, and may include any exception or deletion to the code by setting forth the exception or deletion to the code. The ordinance shall further specify at least one place within the municipality where the code, so adopted, is available for inspection during the normal and regular business hours of the municipal clerk. A copy of the code shall be available upon request and payment of a reasonable charge.

C. Any amendment to such a code may be adopted in the same manner as other ordinances are adopted."

## **Chapter 132 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2009.

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House Floor Substitute for

House Bill 219, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 133**

AN ACT

RELATING TO JUDICIAL RETIREMENT; AMENDING THE JUDICIAL RETIREMENT ACT TO PROVIDE FOR PURCHASE OF SERVICE CREDIT OF ONE YEAR BY ANY MEMBER.

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

## Chapter 133 Section 1 Laws 2007

Section 1. Section 10-12B-5 NMSA 1978 (being Laws 1992, Chapter 111, Section 5, as amended) is amended to read:

"10-12B-5. SERVICE CREDIT--REINSTATEMENT OF FORFEITED SERVICE--PRIOR SERVICE--MILITARY SERVICE.--

A. Personal service rendered by a member shall be credited to the member's service credit account in accordance with board rules and regulations. Service shall be credited to the nearest month. In no case shall any member be credited with a year of service for less than twelve months of service in any calendar year or more than a month of service for all service in any calendar month or more than a year of service for all service in any calendar year.

B. Service credit shall be forfeited if a member leaves office and withdraws the member's accumulated member contributions. A member or former member who is a member of a state system or the educational retirement system who has forfeited service credit by withdrawal of member contributions may reinstate the forfeited service credit by repaying the amount withdrawn plus compound interest from the date of withdrawal to the date of repayment at a rate set by the board. Withdrawn member contributions may be repaid in increments of one year in accordance with procedures established by the board. Full payment of each one-year increment shall be made in a single lump-sum amount in accordance with procedures established by the board.

C. Service credit that a member would have earned if the member had not elected to be excluded from membership may be purchased if the member pays the purchase cost determined pursuant to the provisions of Subsection F of this section.

D. A member who during a term of office enters a uniformed service of the United States shall be given service credit for periods of service in the uniformed services subject to the following conditions:

(1) the member returns to office within ninety days following termination of the period of intervening service in the uniformed services or the affiliated employer certifies in writing to the association that the member is entitled to reemployment rights under the Uniformed Services Employment and Reemployment Rights Act of 1994;

(2) the member retains membership in the association during the period of service in the uniformed services;

(3) free service credit shall not be given for periods of intervening service in the uniformed services following voluntary reenlistment. Service credit for such periods shall only be given after the member pays the association the sum of the contributions that the person would have been required to contribute had the person remained continuously employed throughout the period of intervening service following

voluntary reenlistment, which payment shall be made during the period beginning with the date of reemployment and whose duration is three times the period of the person's intervening service in the uniformed services following voluntary reenlistment, not to exceed five years;

(4) service credit shall not be given for periods of intervening service in the uniformed services that are used to obtain or increase a benefit from another state system or the retirement program provided under the Educational Retirement Act; and

(5) the member must not have received a discharge or separation from uniformed service under other than honorable conditions.

Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986, as amended.

E. A member who entered uniformed service of the United States may purchase service credit for periods of active duty in the uniformed services, subject to the following conditions:

(1) the member pays the purchase cost determined pursuant to the provisions of Subsection F of this section;

(2) the member has five or more years of service credit accrued according to the provisions of the Judicial Retirement Act;

(3) the aggregate amount of service credit purchased pursuant to the provisions of this subsection does not exceed five years, reduced by any period of service credit acquired for military service under any other provision of the Judicial Retirement Act;

(4) service credit may not be purchased for periods of service in the uniformed services that are used to obtain or increase a benefit from another retirement program; and

(5) the member must not have received a discharge or separation from uniformed service under other than honorable conditions.

F. The purchase cost for each year of service credit purchased pursuant to the provisions of this section shall be the increase in the actuarial present value of the pension of the member under the Judicial Retirement Act as a consequence of the purchase, as determined by the association. Full payment shall be made in a single lump-sum amount in accordance with procedures established by the board. Except as provided in Subsection G of this section, seventy-five percent of the purchase cost shall be considered to be employer contributions and shall not be refunded to the member in the event of cessation of membership.

G. A member shall be refunded, after retirement and upon written request filed with the association, the portion of the purchase cost of service credit purchased pursuant to the provisions of this section that the association determines to have been unnecessary to provide the member with the maximum pension applicable to the member. The association shall not pay interest on the portion of the purchase cost refunded to the member.

H. At any time prior to retirement, a member may purchase service credit in monthly increments, subject to the following conditions:

(1) the member has at least five years of service credit acquired as a result of personal service rendered under the Judicial Retirement Act;

(2) the aggregate amount of service credit purchased pursuant to this subsection does not exceed one year;

(3) the member pays full actuarial present value of the amount of the increase in the member's pension as a consequence of the purchase, as determined by the association;

(4) the member pays the full cost of the purchase within sixty days of the date the member is informed of the amount of the payment; and

(5) the purchase of service credit under this subsection cannot be used to exceed the pension maximum."

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House Bill 222

Approved April 2, 2007

## **LAWS 2007, CHAPTER 134**

AN ACT

RELATING TO MAGISTRATE RETIREMENT; AMENDING THE MAGISTRATE RETIREMENT ACT TO PROVIDE FOR PURCHASE OF SERVICE CREDIT OF ONE YEAR BY ANY MEMBER.

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

### **Chapter 134 Section 1 Laws 2007**

Section 1. Section 10-12C-5 NMSA 1978 (being Laws 1992, Chapter 118, Section 5, as amended) is amended to read:

"10-12C-5. SERVICE CREDIT--REINSTATEMENT OF FORFEITED SERVICE--  
PRIOR SERVICE--MILITARY SERVICE.--

A. Personal service rendered by a member shall be credited to the member's service credit account in accordance with board rules and regulations. Service shall be credited to the nearest month. In no case shall any member be credited with a year of service for less than twelve months of service in any calendar year or more than a month of service for all service in any calendar month or more than a year of service for all service in any calendar year.

B. Service credit shall be forfeited if a member leaves office and withdraws the member's accumulated member contributions. A member or former member who is a member of another state system or the educational retirement system who has forfeited service credit by withdrawal of member contributions may reinstate the forfeited service credit by repaying the amount withdrawn plus compound interest from the date of withdrawal to the date of repayment at a rate set by the board. Withdrawn member contributions may be repaid in increments of one year in accordance with procedures established by the board. Full payment of each one-year increment shall be made in a single lump-sum amount in accordance with procedures established by the board.

C. Service credit that a member would have earned if the member had not elected to be excluded from membership may be purchased if the member pays the purchase cost determined pursuant to the provisions of Subsection F of this section.

D. A member who during a term of office enters a uniformed service of the United States shall be given service credit for periods of service in the uniformed services subject to the following conditions:

(1) the member returns to office within ninety days following termination of the period of intervening service in the uniformed services or the affiliated employer certifies in writing to the association that the member is entitled to reemployment rights under the Uniformed Services Employment and Reemployment Rights Act of 1994;

(2) the member retains membership in the association during the period of service in the uniformed services;

(3) free service credit shall not be given for periods of intervening service in the uniformed services following voluntary reenlistment. Service credit for such periods shall only be given after the member pays the association the sum of the contributions that the person would have been required to contribute had the person remained continuously employed throughout the period of intervening service following voluntary reenlistment, which payment shall be made during the period beginning with the date of reemployment and whose duration is three times the period of the person's intervening service in the uniformed services following voluntary reenlistment, not to exceed five years;

(4) service credit shall not be given for periods of intervening service in the uniformed services that are used to obtain or increase a benefit from another state system or the retirement program provided under the Educational Retirement Act; and

(5) the member must not have received a discharge or separation from uniformed service under other than honorable conditions.

Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986, as amended.

E. A member who entered a uniformed service of the United States may purchase service credit for periods of active duty in the uniformed services, subject to the following conditions:

(1) the member pays the purchase cost determined pursuant to the provisions of Subsection F of this section;

(2) the member has five or more years of service credit accrued according to the provisions of the Magistrate Retirement Act;

(3) the aggregate amount of service credit purchased pursuant to the provisions of this subsection does not exceed five years, reduced by any period of service credit acquired for military service under any other provision of the Magistrate Retirement Act;

(4) service credit may not be purchased for periods of service in the uniformed services that are used to obtain or increase a benefit from another retirement program; and

(5) the member must not have received a discharge or separation from uniformed service under other than honorable conditions.

F. The purchase cost for each year of service credit purchased pursuant to the provisions of this section shall be the increase in the actuarial present value of the pension of the member under the Magistrate Retirement Act as a consequence of the purchase, as determined by the association. Full payment shall be made in a single lump-sum amount in accordance with procedures established by the board. Except as provided in Subsection G of this section, seventy-five percent of the purchase cost shall be considered to be employer contributions and shall not be refunded to the member in the event of cessation of membership.

G. A member shall be refunded, after retirement and upon written request filed with the association, the portion of the purchase cost of service credit purchased pursuant to the provisions of this section that the association determines to have been unnecessary to provide the member with the maximum pension applicable to the

member. The association shall not pay interest on the portion of the purchase cost refunded to the member.

H. At any time prior to retirement, a member may purchase service credit in monthly increments, subject to the following conditions:

(1) the member has at least five years of service credit acquired as a result of personal service rendered under the Magistrate Retirement Act;

(2) the aggregate amount of service credit purchased pursuant to this subsection does not exceed one year;

(3) the member pays full actuarial present value of the amount of the increase in the member's pension as a consequence of the purchase, as determined by the association;

(4) the member pays the full cost of the purchase within sixty days of the date the member is informed of the amount of the payment; and

(5) the purchase of service credit under this subsection cannot be used to exceed the pension maximum."

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House Bill 224

Approved April 2, 2007

## **LAWS 2007, CHAPTER 135**

### **AN ACT**

RELATING TO POWERS OF ATTORNEY; ENACTING THE UNIFORM POWER OF ATTORNEY ACT; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

ARTICLE 1  
GENERAL PROVISIONS

### **Chapter 135 Section 101 Laws 2007**

Section 101. SHORT TITLE.--This act may be cited as the "Uniform Power of Attorney Act".

## Chapter 135 Section 102 Laws 2007

Section 102. DEFINITIONS.--As used in the Uniform Power of Attorney Act:

A. "agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact or otherwise. The term includes an original agent, co-agent, successor agent and a person to which an agent's authority is delegated;

B. "durable", with respect to a power of attorney, means not terminated by the principal's incapacity;

C. "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities;

D. "good faith" means honesty in fact;

E. "incapacity" means inability of an individual to manage the individual's estate or financial affairs, or both, because:

(1) of gross mismanagement, as evidenced by recent behavior, of the individual's income and resources or the individual's medical inability to manage the individual's income and resources that has led, or is likely in the near future to lead, to financial vulnerability; or

(2) the individual is:

(a) missing;

(b) detained, including incarcerated in a penal system; or

(c) outside the United States and unable to return;

F. "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity;

G. "power of attorney" means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term "power of attorney" is used;

H. "presently exercisable general power of appointment", with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors or the creditors of the principal's estate. The

term 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 period only after the occurrence of the specified event, the satisfaction of the ascertainable standard or the passage of the specified period. The term does not include a power exercisable in a fiduciary capacity or only by will;

I. "principal" means an individual who grants authority to an agent in a power of attorney;

J. "property" means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein;

K. "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

L. "sign" 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;

M. "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States; and

N. "stocks and bonds" means stocks, bonds, mutual funds and all other types of securities and financial instruments, whether held directly, indirectly or in any other manner. The term does not include commodity futures contracts and call or put options on stocks or stock indexes.

## **Chapter 135 Section 103 Laws 2007**

Section 103. APPLICABILITY.--The Uniform Power of Attorney Act applies to all powers of attorney except:

A. a power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;

B. a power to make health care decisions;

C. a proxy or other delegation to exercise voting rights or management rights with respect to an entity; and

D. a power created on a form prescribed by a government or governmental subdivision, agency or instrumentality for a governmental purpose.

### **Chapter 135 Section 104 Laws 2007**

Section 104. POWER OF ATTORNEY IS DURABLE.--A power of attorney created under the Uniform Power of Attorney Act is durable unless it expressly provides that it is terminated by the incapacity of the principal.

### **Chapter 135 Section 105 Laws 2007**

Section 105. EXECUTION OF POWER OF ATTORNEY.--A power of attorney must be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

### **Chapter 135 Section 106 Laws 2007**

Section 106. VALIDITY OF POWER OF ATTORNEY.--

A. A power of attorney executed in this state on or after July 1, 2007 is valid if its execution complies with Section 105 of the Uniform Power of Attorney Act.

B. A power of attorney executed in this state before July 1, 2007 is valid if its execution complied with the law of this state as it existed at the time of execution.

C. A power of attorney executed other than in this state is valid in this state if, when the power of attorney was executed, the execution complied with:

(1) the law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to Section 107 of the Uniform Power of Attorney Act; or

(2) the requirements for a military power of attorney pursuant to 10 U.S.C. Section 1044b, as amended.

D. Except as otherwise provided by statute other than the Uniform Power of Attorney Act, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original.

### **Chapter 135 Section 107 Laws 2007**

Section 107. MEANING AND EFFECT OF POWER OF ATTORNEY.--The meaning and effect of a power of attorney is determined by the law of the jurisdiction

indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.

## **Chapter 135 Section 108 Laws 2007**

### **Section 108. NOMINATION OF CONSERVATOR OR GUARDIAN--RELATION OF AGENT TO COURT-APPOINTED FIDUCIARY.--**

A. In a power of attorney, a principal may nominate a conservator of the principal's estate or guardian of the principal's person for consideration by the court if protective proceedings for the principal's estate or person are begun after the principal executes the power of attorney. Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination.

B. If, after a principal executes a power of attorney, a court appoints a conservator of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, the agent is accountable to the fiduciary as well as to the principal. The power of attorney is not terminated and the agent's authority continues unless limited, suspended or terminated by the court after notice to, and an opportunity to be heard by, the agent and the principal.

## **Chapter 135 Section 109 Laws 2007**

### **Section 109. WHEN POWER OF ATTORNEY EFFECTIVE.--**

A. A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.

B. If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one or more persons to determine in a writing or other record that the event or contingency has occurred.

C. If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by:

(1) a physician or licensed psychologist that the principal is incapacitated within the meaning of Paragraph (1) of Subsection E of Section 102 of the Uniform Power of Attorney Act; or

(2) an attorney at law, a judge or an appropriate governmental official that the principal is incapacitated within the meaning of Paragraph (2) of Subsection E of Section 102 of the Uniform Power of Attorney Act.

D. A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative pursuant to the federal Health Insurance Portability and Accountability Act, Sections 1171 through 1179 of the Social Security Act, 42 U.S.C. Section 1320d, as amended, and applicable regulations to obtain access to the principal's health care information and communicate with the principal's health care provider.

## **Chapter 135 Section 110 Laws 2007**

### **Section 110. TERMINATION OF POWER OF ATTORNEY OR AGENT'S AUTHORITY.--**

A. A power of attorney terminates when:

- (1) the principal dies;
- (2) the principal becomes incapacitated, if the power of attorney is not durable;
- (3) the principal revokes the power of attorney;
- (4) the power of attorney provides that it terminates;
- (5) the purpose of the power of attorney is accomplished; or
- (6) the principal revokes the agent's authority or the agent dies, becomes incapacitated or resigns and the power of attorney does not provide for another agent to act under the power of attorney.

B. An agent's authority terminates when:

- (1) the principal revokes the authority;
- (2) the agent dies, becomes incapacitated or resigns;
- (3) an action is filed for the dissolution or annulment of the agent's marriage to the principal or their legal separation, unless the power of attorney otherwise provides; or
- (4) the power of attorney terminates.

C. Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under Subsection B of this section, notwithstanding a lapse of time since the execution of the power of attorney.

D. Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

E. Incapacity of the principal of a power of attorney that is not durable does not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

F. The execution of a power of attorney does not revoke a power of attorney previously executed by the principal unless the subsequent power of attorney provides that the previous power of attorney is revoked or that all other powers of attorney are revoked.

## **Chapter 135 Section 111 Laws 2007**

### Section 111. CO-AGENTS AND SUCCESSOR AGENTS.--

A. A principal may designate two or more persons to act as co-agents. Unless the power of attorney otherwise provides, each co-agent may exercise its authority independently.

B. A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve or declines to serve. A principal may grant authority to designate one or more successor agents to an agent or other person designated by name, office or function. Unless the power of attorney otherwise provides, a successor agent:

(1) has the same authority as that granted to the original agent; and

(2) may not act until all predecessor agents have resigned, died, become incapacitated, are no longer qualified to serve or have declined to serve.

C. Except as otherwise provided in the power of attorney and Subsection D of this section, an agent that does not participate in or conceal a breach of fiduciary duty committed by another agent, including a predecessor agent, is not liable for the actions of the other agent.

D. An agent that has actual knowledge of a breach or imminent breach of fiduciary duty by another agent shall notify the principal and, if the principal is

incapacitated, take any action reasonably appropriate in the circumstances to safeguard the principal's best interest. An agent that fails to notify the principal or take action as required by this subsection is liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken such action.

### **Chapter 135 Section 112 Laws 2007**

Section 112. REIMBURSEMENT AND COMPENSATION OF AGENT.--Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances.

### **Chapter 135 Section 113 Laws 2007**

Section 113. AGENT'S ACCEPTANCE.--Except as otherwise provided in the power of attorney, a person accepts appointment as an agent under a power of attorney by exercising authority or performing duties as an agent or by any other assertion or conduct indicating acceptance.

### **Chapter 135 Section 114 Laws 2007**

Section 114. AGENT'S DUTIES.--

A. Notwithstanding provisions in the power of attorney, an agent that has accepted appointment shall:

- (1) act in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, in the principal's best interest;
- (2) act in good faith; and
- (3) act only within the scope of authority granted in the power of attorney.

B. Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall:

- (1) act loyally for the principal's benefit;
- (2) act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;
- (3) act with the care, competence and diligence ordinarily exercised by agents in similar circumstances;
- (4) keep a record of all receipts, disbursements and transactions made on behalf of the principal;

(5) cooperate with a person that has authority to make health care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and otherwise act in the principal's best interest; and

(6) attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interest based on all relevant factors, including:

(a) the value and nature of the principal's property;

(b) the principal's foreseeable obligations and need for maintenance;

(c) minimization of taxes, including income, estate, inheritance, generation-skipping transfer and gift taxes; and

(d) eligibility for a benefit, a program or assistance under a statute or regulation.

C. An agent that acts in good faith is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.

D. An agent that acts with care, competence and diligence for the best interest of the principal is not liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.

E. If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence and diligence under the circumstances.

F. Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.

G. An agent that exercises authority to delegate to another person the authority granted by the principal or that engages another person on behalf of the principal is not liable for an act, error of judgment or default of that person if the agent exercises care, competence and diligence in selecting and monitoring the person.

H. Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal or, upon the death of the principal, by the personal representative or successor in interest of the principal's estate. If so requested,

and unless a shorter period of time is required by a law other than the Uniform Power of Attorney Act, within thirty days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional thirty days.

## **Chapter 135 Section 115 Laws 2007**

Section 115. EXONERATION OF AGENT.--A provision in a power of attorney relieving an agent of liability for breach of duty is binding on the principal and the principal's successors in interest except to the extent the provision:

A. relieves the agent of liability for breach of duty committed dishonestly, with an improper motive or with reckless indifference to the purposes of the power of attorney or the best interest of the principal; or

B. was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.

## **Chapter 135 Section 116 Laws 2007**

Section 116. JUDICIAL RELIEF.--

A. The following persons may petition a court to construe a power of attorney or review the agent's conduct and grant appropriate relief:

- (1) the principal or the agent;
- (2) a guardian, conservator or other fiduciary acting for the principal;
- (3) a person authorized to make health care decisions for the principal;
- (4) the principal's spouse, parent or descendant;
- (5) an individual who would qualify as a presumptive heir of the principal;
- (6) a person named as a beneficiary to receive any property, benefit or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;
- (7) a governmental agency having regulatory authority to protect the welfare of the principal;
- (8) the principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare; and
- (9) a person asked to accept the power of attorney.

B. Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

### **Chapter 135 Section 117 Laws 2007**

Section 117. AGENT'S LIABILITY.--An agent that violates the Uniform Power of Attorney Act is liable to the principal or the principal's successors in interest for the amount required to:

A. restore the value of the principal's property to what it would have been had the violation not occurred; and

B. reimburse the principal or the principal's successors in interest for the attorney fees and costs paid on the agent's behalf.

### **Chapter 135 Section 118 Laws 2007**

Section 118. AGENT'S RESIGNATION--NOTICE.--Unless the power of attorney provides a different method for an agent's resignation, an agent may resign by giving notice to the principal and, if the principal is incapacitated:

(1) to the conservator or guardian, if one has been appointed for the principal, and a co-agent or successor agent; or

(2) if there is no person described in Paragraph (1) of this subsection, to:

(a) the principal's caregiver;

(b) another person reasonably believed by the agent to have sufficient interest in the principal's welfare; or

(c) a governmental agency having authority to protect the welfare of the principal.

### **Chapter 135 Section 119 Laws 2007**

Section 119. ACCEPTANCE OF AND RELIANCE UPON ACKNOWLEDGED POWER OF ATTORNEY.--

A. For purposes of this section and Section 120 of the Uniform Power of Attorney Act, "acknowledged" means purportedly verified before a notary public or other individual authorized to take acknowledgments.

B. A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the

presumption under Section 105 of the Uniform Power of Attorney Act that the signature is genuine.

C. A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the power of attorney is void, invalid or terminated that the purported agent's authority is void, invalid or terminated or that the agent is exceeding or improperly exercising the agent's authority may rely upon the power of attorney as if the power of attorney were genuine, valid and still in effect, the agent's authority were genuine, valid and still in effect and the agent had not exceeded and had properly exercised the authority.

D. A person that is asked to accept an acknowledged power of attorney may request, and rely upon, without further investigation:

(1) an agent's certification under penalty of perjury of any factual matter concerning the principal, agent or power of attorney;

(2) an English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English; and

(3) an opinion of counsel as to any matter of law concerning the power of attorney if the person making the request provides in a writing or other record the reason for the request.

E. An English translation or an opinion of counsel requested under this section must be provided at the principal's expense unless the request is made more than seven business days after the power of attorney is presented for acceptance.

F. For purposes of this section and Section 120 of the Uniform Power of Attorney Act, a person that conducts activities through employees is without actual knowledge of a fact relating to a power of attorney, a principal or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact.

## **Chapter 135 Section 120 Laws 2007**

Section 120. LIABILITY FOR REFUSAL TO ACCEPT ACKNOWLEDGED POWER OF ATTORNEY.--

A. As used in this section, "statutory form power of attorney" means a power of attorney substantially in the form provided in Section 301 of the Uniform Power of Attorney Act or that meets the requirements for a military power of attorney pursuant to 10 U.S.C. Section 1046, as amended.

B. Except as otherwise provided in Subsection C of this section:

(1) a person shall either accept an acknowledged statutory form power of attorney or request a certification, a translation or an opinion of counsel under Subsection B of Section 119 of the Uniform Power of Attorney Act no later than seven business days after presentation of the power of attorney for acceptance;

(2) if a person requests a certification, a translation or an opinion of counsel under Subsection D of Section 119 of the Uniform Power of Attorney Act, the person shall accept the statutory form power of attorney no later than five business days after receipt of the certification, the translation or an opinion of counsel; and

(3) a person shall not require an additional or different form of power of attorney for authority granted in the statutory form power of attorney presented.

C. A person is not required to accept an acknowledged statutory form power of attorney if:

(1) the person is not otherwise required to engage in a transaction with the principal in the same circumstances;

(2) engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal law;

(3) the person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power;

(4) a request for a certification, a translation or an opinion of counsel under Subsection D of Section 119 of the Uniform Power of Attorney Act is refused;

(5) the person in good faith believes that the power of attorney is not valid or that the agent does not have the authority to perform the act requested, whether or not a certification, a translation or an opinion of counsel under Subsection D of Section 119 of the Uniform Power of Attorney Act has been requested or provided; or

(6) the person makes, or has actual knowledge that another person has made, a report to the adult protective services division of the aging and long-term services department stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation or abandonment by the agent or a person acting for or with the agent.

D. A person that refuses in violation of this section to accept an acknowledged statutory form power of attorney is subject to:

(1) a court order mandating acceptance of the power of attorney; and

(2) liability for reasonable attorney fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.

### **Chapter 135 Section 121 Laws 2007**

Section 121. PRINCIPLES OF LAW AND EQUITY.--Unless displaced by a provision of the Uniform Power of Attorney Act, the principles of law and equity supplement that act.

### **Chapter 135 Section 122 Laws 2007**

Section 122. LAWS APPLICABLE TO FINANCIAL INSTITUTIONS AND ENTITIES.--The Uniform Power of Attorney Act does not supersede any other law applicable to financial institutions or other entities, and the other law controls if inconsistent with that act.

### **Chapter 135 Section 123 Laws 2007**

Section 123. REMEDIES UNDER OTHER LAW.--The remedies under the Uniform Power of Attorney Act are not exclusive and do not abrogate any right or remedy under the law of this state other than that act.

## **ARTICLE 2 AUTHORITY**

### **Chapter 135 Section 201 Laws 2007**

Section 201. AUTHORITY THAT REQUIRES SPECIFIC GRANT--GRANT OF GENERAL AUTHORITY.--

A. An agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

- (1) create, amend, revoke or terminate an inter vivos trust;
- (2) make a gift;
- (3) create or change rights of survivorship;
- (4) create or change a beneficiary designation;
- (5) delegate authority granted under the power of attorney;

(6) waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;

(7) exercise fiduciary powers that the principal has authority to delegate;  
or

(8) disclaim property, including a power of appointment.

B. Notwithstanding a grant of authority to do an act described in Subsection A of this section, unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse or descendant of the principal shall not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer or otherwise.

C. Subject to Subsections A, B, D and E of this section, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in Sections 204 through 216 of the Uniform Power of Attorney Act.

D. Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to the provisions of Section 217 of the Uniform Power of Attorney Act.

E. Subject to Subsections A, B and D of this section, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

F. Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this state and whether or not the authority is exercised or the power of attorney is executed in this state.

G. An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

## **Chapter 135 Section 202 Laws 2007**

### **Section 202. INCORPORATION OF AUTHORITY.--**

A. An agent has authority described in this article if the power of attorney refers to general authority with respect to the descriptive term for the subjects stated in Sections 204 through 217 of the Uniform Power of Attorney Act or cites the section in which the authority is described.

B. A reference in a power of attorney to general authority with respect to the descriptive term for a subject in Sections 204 through 217 of the Uniform Power of Attorney Act or a citation to a section of Sections 204 through 217 of that act incorporates the entire section as if it were set out in full in the power of attorney.

C. A principal may modify authority incorporated by reference.

## **Chapter 135 Section 203 Laws 2007**

Section 203. CONSTRUCTION OF AUTHORITY GENERALLY.--Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in Sections 204 through 217 of the Uniform Power of Attorney Act or that grants to an agent authority to do all acts that a principal could do pursuant to Subsection C of Section 201 of that act, a principal authorizes the agent, with respect to that subject, to:

A. demand, receive and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become or claims to be entitled, and conserve, invest, disburse or use anything so received or obtained for the purposes intended;

B. contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release or modify the contract or another contract made by or on behalf of the principal;

C. execute, acknowledge, seal, deliver, file or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney;

D. initiate, participate in, submit to alternative dispute resolution, settle, oppose or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

E. seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;

F. engage, compensate and discharge an attorney, accountant, discretionary investment manager, expert witness or other advisor;

G. prepare, execute and file a record, report or other document to safeguard or promote the principal's interest under a statute or regulation;

H. communicate with any representative or employee of a government or governmental subdivision, agency or instrumentality on behalf of the principal;

I. access communications intended for and communicate on behalf of the principal, whether by mail, electronic transmission, telephone or other means; and

J. do any lawful act with respect to the subject and all property related to the subject.

## **Chapter 135 Section 204 Laws 2007**

Section 204. REAL PROPERTY.--Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes the agent to:

A. demand, buy, lease, receive, accept as a gift or as security for an extension of credit or otherwise acquire or reject an interest in real property or a right incident to real property;

B. sell, exchange, convey with or without covenants, representations or warranties, quitclaim, release, surrender, retain title for security, encumber, partition, consent to partitioning, subject to an easement or covenant, subdivide, apply for zoning or other governmental permits, plat or consent to platting, develop, grant an option concerning, lease, sublease, contribute to an entity in exchange for an interest in that entity or otherwise grant or dispose of an interest in real property or a right incident to real property;

C. pledge or mortgage an interest in real property or a right incident to real property as security to borrow money or pay, renew or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

D. release, assign, satisfy or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien or other claim to real property that exists or is asserted;

E. manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(1) insuring against liability or casualty or other loss;

(2) obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(3) paying, assessing, compromising or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments; and

(4) purchasing supplies, hiring assistance or labor and making repairs or alterations to the real property;

F. use, develop, alter, replace, remove, erect or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;

G. participate in a reorganization with respect to real property or an entity that owns an interest in real property or a right incident to real property and receive, hold and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

(1) selling or otherwise disposing of them;

(2) exercising or selling an option, right of conversion or similar right with respect to them; and

(3) exercising any voting rights in person or by proxy;

H. change the form of title of an interest in real property or a right incident to real property; and

I. dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.

## **Chapter 135 Section 205 Laws 2007**

Section 205. TANGIBLE PERSONAL PROPERTY.--Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to tangible personal property authorizes the agent to:

A. demand, buy, receive, accept as a gift or as security for an extension of credit or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property;

B. sell, exchange, convey with or without covenants, representations or warranties, quitclaim, release, surrender, create a security interest in, grant options concerning, lease, sublease or otherwise dispose of tangible personal property or an interest in tangible personal property;

C. grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

D. release, assign, satisfy or enforce by litigation or otherwise a security interest, lien or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property;

E. manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(1) insuring against liability or casualty or other loss;

(2) obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;

(3) paying, assessing, compromising or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(4) moving the property from place to place;

(5) storing the property for hire or on a gratuitous bailment; and

(6) using and making repairs, alterations or improvements to the property;  
and

F. change the form of title of an interest in tangible personal property.

## **Chapter 135 Section 206 Laws 2007**

Section 206. STOCKS AND BONDS.--Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to stocks and bonds authorizes the agent to:

A. buy, sell and exchange stocks and bonds;

B. establish, continue, modify or terminate an account with respect to stocks and bonds;

C. pledge stocks and bonds as security to borrow, pay, renew or extend the time of payment of a debt of the principal;

D. receive certificates and other evidences of ownership with respect to stocks and bonds; and

E. exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

## **Chapter 135 Section 207 Laws 2007**

Section 207. COMMODITIES AND OPTIONS.--Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to commodities and options authorizes the agent to:

A. buy, sell, exchange, assign, settle and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange; and

B. establish, continue, modify and terminate option accounts.

## **Chapter 135 Section 208 Laws 2007**

Section 208. BANKS AND OTHER FINANCIAL INSTITUTIONS.--Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to banks and other financial institutions authorizes the agent to:

A. continue, modify and terminate an account or other banking arrangement made by or on behalf of the principal;

B. establish, modify and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm or other financial institution selected by the agent;

C. contract for services available from a financial institution, including renting a safe deposit box or space in a vault;

D. withdraw, by check, order, electronic funds transfer or otherwise, money or property of the principal deposited with or left in the custody of a financial institution;

E. receive statements of account, vouchers, notices and similar documents from a financial institution and act with respect to them;

F. enter a safe deposit box or vault and withdraw or add to the contents;

G. borrow money and pledge as security personal property of the principal necessary to borrow money or to pay, renew or extend the time of payment of a debt of the principal or of a debt guaranteed by the principal;

H. make, assign, draw, endorse, discount, guarantee and negotiate promissory notes, checks, drafts and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions and accept a draft drawn by a person upon the principal and pay it when due;

I. receive for the principal and act upon a sight draft, warehouse receipt or other document of title, whether tangible or electronic, or other negotiable or nonnegotiable instrument;

J. apply for, receive and use letters of credit, credit and debit cards, electronic transaction authorizations and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit; and

K. consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

## **Chapter 135 Section 209 Laws 2007**

Section 209. OPERATION OF ENTITY OR BUSINESS.--Subject to the terms of a document or an agreement governing an entity or an entity ownership interest, and unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to operation of an entity or business authorizes the agent to:

A. operate, buy, sell, enlarge, reduce or terminate an ownership interest;

B. perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege or option that the principal has, may have or claims to have;

C. enforce the terms of an ownership agreement;

D. initiate, participate in and submit to alternative dispute resolution; settle; and oppose, propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest;

E. exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege or option the principal has or claims to have as the holder of stocks and bonds;

F. initiate, participate in, submit to alternative dispute resolution, settle, oppose or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds;

G. with respect to an entity or business owned solely by the principal:

(1) continue, modify, renegotiate, extend and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney;

(2) determine:

(a) the location of its operation;

(b) the nature and extent of its business;

(c) the methods of manufacturing, selling, merchandising, financing, accounting and advertising employed in its operation;

(d) the amount and types of insurance carried; and

(e) the mode of engaging, compensating and dealing with its employees and accountants, attorneys or other advisors;

(3) change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(4) demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business;

H. put additional capital into an entity or business in which the principal has an interest;

I. join in a plan of reorganization, consolidation, conversion, domestication or merger of the entity or business;

J. sell or liquidate all or part of an entity or business;

K. establish the value of an entity or business under a buy-out agreement to which the principal is a party;

L. prepare, sign, file and deliver reports, compilations of information, returns or other papers with respect to an entity or business and make related payments; and

M. pay, compromise or contest taxes, assessments, fines or penalties and perform any other act to protect the principal from illegal or unnecessary taxation, assessments, fines or penalties, with respect to an entity or business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

## **Chapter 135 Section 210 Laws 2007**

Section 210. INSURANCE AND ANNUITIES.--Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to insurance and annuities authorizes the agent to:

A. continue, pay the premium or make a contribution on, modify, exchange, rescind, release or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract;

B. procure new, different and additional contracts of insurance and annuities for the principal and the principal's spouse, children and other dependents and select the amount, type of insurance or annuity and mode of payment;

C. pay the premium or make a contribution on, modify, exchange, rescind, release or terminate a contract of insurance or annuity procured by the agent;

D. apply for and receive a loan secured by a contract of insurance or annuity;

E. surrender and receive the cash surrender value on a contract of insurance or annuity;

F. exercise an election;

G. exercise investment powers available under a contract of insurance or annuity;

H. change the manner of paying premiums on a contract of insurance or annuity;

I. change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section;

J. apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal;

K. collect, sell, assign, hypothecate, borrow against or pledge the interest of the principal in a contract of insurance or annuity;

L. select the form and timing of the payment of proceeds from a contract of insurance or annuity; and

M. pay, from proceeds or otherwise, compromise or contest and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

## **Chapter 135 Section 211 Laws 2007**

Section 211. ESTATES, TRUSTS AND OTHER BENEFICIAL INTERESTS.--

A. As used in this section, "estates, trusts and other beneficial interests" means a trust, probate estate, guardianship, conservatorship, escrow or custodianship or a fund from which the principal is, may become, or claims to be entitled to a share or payment.

B. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts and other beneficial interests authorizes the agent to:

(1) accept, receive, receipt for, sell, assign, pledge or exchange a share in or payment from the fund;

(2) demand or obtain money or another thing of value to which the principal is, may become or claims to be entitled by reason of the fund, by litigation or otherwise;

(3) exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose or propose or accept a compromise with respect to litigation to ascertain the meaning, validity or effect of a deed, will, declaration of trust or other instrument or transaction affecting the interest of the principal;

(5) initiate, participate in, submit to alternative dispute resolution, settle, oppose or propose or accept a compromise with respect to litigation to remove, substitute or surcharge a fiduciary;

(6) conserve, invest, disburse or use anything received for an authorized purpose; and

(7) transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities and other property to the trustee of a revocable trust created by the principal as settlor.

## **Chapter 135 Section 212 Laws 2007**

Section 212. CLAIMS AND LITIGATION.--Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to claims and litigation authorizes the agent to:

A. assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability or seek an injunction, specific performance or other relief;

B. bring an action to determine adverse claims or intervene or otherwise participate in litigation;

C. seek an attachment, garnishment, order of arrest or other preliminary, provisional or intermediate relief and use an available procedure to effect or satisfy a judgment, order or decree;

D. make or accept a tender, offer of judgment or admission of facts, submit a controversy on an agreed statement of facts, consent to examination and bind the principal in litigation;

E. submit to alternative dispute resolution, settle and propose or accept a compromise;

F. waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon which process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs and receive, execute and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement or other instrument in connection with the prosecution, settlement or defense of a claim or litigation;

G. act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value;

H. pay a judgment, award or order against the principal or a settlement made in connection with a claim or litigation; and

I. receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

## **Chapter 135 Section 213 Laws 2007**

### **Section 213. PERSONAL AND FAMILY MAINTENANCE.--**

A. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to:

(1) perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse and the following individuals, whether living when the power of attorney is executed or later born:

(a) the principal's children;

(b) other individuals legally entitled to be supported by the principal; and

(c) the individuals whom the principal has customarily supported or indicated the intent to support;

(2) make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;

(3) provide living quarters for the individuals described in Paragraph (1) of this subsection by:

(a) purchase, lease or other contract; or

(b) paying the operating costs, including interest, amortization payments, repairs, improvements and taxes, for premises owned by the principal or occupied by those individuals;

(4) provide normal domestic help, usual vacations and travel expenses and funds for shelter, clothing, food, appropriate education, including post-secondary and vocational education, and other current living costs for the individuals described in Paragraph (1) of this subsection;

(5) pay expenses for necessary health care and custodial care on behalf of the individuals described in Paragraph (1) of this subsection;

(6) act as the principal's personal representative pursuant to the federal Health Insurance Portability and Accountability Act, Sections 1171 through 1179 of the Social Security Act, 42 U.S.C. Section 1320d, as amended, and applicable regulations, in making decisions related to the past, present or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this state to consent to health care on behalf of the principal;

(7) continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring and replacing them, for the individuals described in Paragraph (1) of this subsection;

(8) maintain credit and debit accounts for the convenience of the individuals described in Paragraph (1) of this subsection and open new accounts; and

(9) continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order or other organization or continue contributions to those organizations.

B. Authority with respect to personal and family maintenance is neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under the Uniform Power of Attorney Act.

## **Chapter 135 Section 214 Laws 2007**

Section 214. BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE.--

A. As used in this section, "benefits from governmental programs or civil or military service" means any benefit, program or assistance provided under a statute or regulation, including social security, medicare and medicaid.

B. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits from governmental programs or civil or military service authorizes the agent to:

(1) execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in Paragraph (1) of Subsection A of Section 213 of the Uniform Power of Attorney Act, and for shipment of their household effects;

(2) take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate or other instrument for that purpose;

(3) enroll in, apply for, select, reject, change, amend or discontinue, on the principal's behalf, a benefit or program;

(4) prepare, file and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation;

(5) initiate, participate in, submit to alternative dispute resolution, settle, oppose or propose or accept a compromise with respect to litigation concerning any benefit or assistance the principal may be entitled to receive under a statute or regulation; and

(6) receive the financial proceeds of a claim described in Paragraph (4) of this subsection and conserve, invest, disburse or use for a lawful purpose anything so received.

## **Chapter 135 Section 215 Laws 2007**

Section 215. RETIREMENT PLANS.--

A. As used in this section, "retirement plan" means a plan or account created by an employer, the principal or another individual to provide retirement benefits or

deferred compensation of which the principal is a participant, beneficiary or owner, including a plan or account under the following sections of the Internal Revenue Code:

- (1) an individual retirement account under Section 408 of the Internal Revenue Code of 1986, as amended;
- (2) a Roth individual retirement account under Section 408A of the Internal Revenue Code of 1986, as amended;
- (3) a deemed individual retirement account under Section 408(q) of the Internal Revenue Code of 1986, as amended;
- (4) an annuity or mutual fund custodial account under Section 403(b) of the Internal Revenue Code of 1986, as amended;
- (5) a pension, profit-sharing, stock bonus or other retirement plan qualified under Section 401(a) of the Internal Revenue Code of 1986, as amended;
- (6) a plan under Section 457(b) of the Internal Revenue Code of 1986, as amended; and
- (7) a nonqualified deferred compensation plan under Section 409A of the Internal Revenue Code of 1986, as amended.

B. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to retirement plans authorizes the agent to:

- (1) select the form and timing of payments under a retirement plan and withdraw benefits from a plan;
- (2) make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another;
- (3) establish a retirement plan in the principal's name;
- (4) make contributions to a retirement plan;
- (5) exercise investment powers available under a retirement plan; and
- (6) borrow from, sell assets to or purchase assets from a retirement plan.

## **Chapter 135 Section 216 Laws 2007**

Section 216. TAXES.--Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes authorizes the agent to:

A. prepare, sign and file federal, state, local and foreign income, gift, payroll, property, Federal Insurance Contributions Act and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters and any other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under Section 2032A of the Internal Revenue Code of 1986, as amended, closing agreements and any power of attorney required by the internal revenue service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following twenty-five tax years;

B. pay taxes due, collect refunds, post bonds, receive confidential information and contest deficiencies determined by the internal revenue service or other taxing authority;

C. exercise any election available to the principal under federal, state, local or foreign tax law; and

D. act for the principal in all tax matters for all periods before the internal revenue service or other taxing authority.

## **Chapter 135 Section 217 Laws 2007**

Section 217. GIFTS.--

A. As used in this section, a gift "for the benefit of" a person includes a gift to a trust, an account under the Uniform Transfers to Minors Act and a tuition savings account or prepaid tuition plan as defined under Section 529 of the Internal Revenue Code of 1986, as amended.

B. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to gifts authorizes the agent only to:

(1) make outright to or for the benefit of a person a gift of any of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under Section 2503(b) of the Internal Revenue Code of 1986, as amended, without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to Section 2513 of the Internal Revenue Code of 1986, as amended, in an amount per donee not to exceed twice the annual federal gift tax exclusion limit; and

(2) consent, pursuant to Section 2513 of the Internal Revenue Code of 1986, as amended, to the splitting of a gift made by the principal's spouse in an amount per donee not to exceed the aggregate annual gift tax exclusions for both spouses.

C. An agent may make a gift of the principal's property only as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including:

- (1) the value and nature of the principal's property;
- (2) the principal's foreseeable obligations and need for maintenance;
- (3) minimization of taxes, including income, estate, inheritance, generation-skipping transfer and gift taxes;
- (4) eligibility for a benefit, a program or assistance under a statute or regulation; and
- (5) the principal's personal history of making or joining in making gifts.

## ARTICLE 3 STATUTORY FORMS

### **Chapter 135 Section 301 Laws 2007**

Section 301. STATUTORY FORM POWER OF ATTORNEY.--A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by the Uniform Power of Attorney Act:

"NEW MEXICO

STATUTORY FORM POWER OF ATTORNEY

#### IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Uniform Power of Attorney Act.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

This form provides for designation of one agent. If you wish to name more than one agent, you may name a co-agent in the Special Instructions. Co-agents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

#### DESIGNATION OF AGENT

I, \_\_\_\_\_, (Your Name)

name the following person as my agent:

Name of Agent: \_\_\_\_\_

Agent's Address: \_\_\_\_\_

Agent's Telephone Number: \_\_\_\_\_

#### DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: \_\_\_\_\_

Successor Agent's Address: \_\_\_\_\_

Successor Agent's Telephone Number: \_\_\_\_\_

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent: \_\_\_\_\_

Second Successor Agent's Address: \_\_\_\_\_

Second Successor Agent's Telephone Number: \_\_\_\_\_

#### GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Uniform Power of Attorney Act:

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects, you may initial "All Preceding Subjects" instead of initialing each subject.)

- Real Property
- Tangible Personal Property
- Stocks and Bonds
- Commodities and Options
- Banks and Other Financial Institutions
- Operation of Entity or Business
- Insurance and Annuities
- Estates, Trusts and Other Beneficial Interests
- Claims and Litigation
- Personal and Family Maintenance
- Benefits from Governmental Programs or Civil or Military Service
- Retirement Plans
- Taxes
- All Preceding Subjects

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

*(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)*

- Create, amend, revoke or terminate an inter vivos trust
- Make a gift, subject to the limitations of Section 217 of the Uniform Power of Attorney Act and any special instructions in this power of attorney
- Create or change rights of survivorship
- Create or change a beneficiary designation
- Authorize another person to exercise the authority granted under this power of attorney
- Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- Exercise fiduciary powers that the principal has authority to delegate
- Disclaim or refuse an interest in property, including a power of appointment

LIMITATION ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

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**EFFECTIVE DATE**

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

**NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)**

If it becomes necessary for a court to appoint a conservator or guardian of my estate or guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for conservator of my estate:

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Nominee's Address: \_\_\_\_\_

Nominee's Telephone Number: \_\_\_\_\_

Name of Nominee for guardian of my person: \_\_\_\_\_

Nominee's Address: \_\_\_\_\_

Nominee's Telephone Number: \_\_\_\_\_

**RELIANCE ON THIS POWER OF ATTORNEY**

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

**SIGNATURE AND ACKNOWLEDGMENT**

Your Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Your Name Printed: \_\_\_\_\_

Your Address: \_\_\_\_\_

Your Telephone Number: \_\_\_\_\_

State of \_\_\_\_\_

(County) of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_,  
\_\_\_\_\_ (Date)

by \_\_\_\_\_ (Name of Principal).

*(Seal, if any)*

Signature of notarial officer:

\_\_\_\_\_

My commission expires: \_\_\_\_\_

## IMPORTANT INFORMATION FOR AGENT

### Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

1. do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;
2. act in good faith;
3. do nothing beyond the authority granted in this power of attorney; and
4. disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

\_\_\_\_\_

(Principal's Name)

by

\_\_\_\_\_ as Agent

(Your Signature)

Unless the Special Instructions in this power of attorney state otherwise, you must also:

1. act loyally for the principal's benefit;
2. avoid conflicts that would impair your ability to act in the principal's best interest;
3. act with care, competence and diligence;
4. keep a record of all receipts, disbursements and transactions made on behalf of the principal;
5. cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and
6. attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

#### Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

1. death of the principal;
2. the principal's revocation of the power of attorney or your authority;
3. the occurrence of a termination event stated in the power of attorney;
4. the purpose of the power of attorney is fully accomplished; or

5. if you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

### Liability of Agent

The meaning of the authority granted to you is defined in the Uniform Power of Attorney Act. If you violate the Uniform Power of Attorney Act or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice."

## Chapter 135 Section 302 Laws 2007

Section 302. AGENT'S CERTIFICATION.--The following optional form may be used by an agent to certify facts concerning a power of attorney:

"AGENT'S CERTIFICATION AS TO THE VALIDITY OF  
POWER OF ATTORNEY AND AGENT'S AUTHORITY

State of \_\_\_\_\_

(County) of \_\_\_\_\_

I, \_\_\_\_\_ (Name of Agent), certify under penalty of perjury that \_\_\_\_\_ (Name of Principal) granted me authority as an agent or successor agent in a power of attorney dated \_\_\_\_\_.

I further certify that to my knowledge:

(1) the Principal is alive and has not revoked the Power of Attorney or my authority to act under the Power of Attorney and the Power of Attorney and my authority to act under the Power of Attorney have not terminated;

(2) if the Power of Attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred;

(3) if I was named as a successor agent, the prior agent is no longer able or willing to serve; and

(4) \_\_\_\_\_

\_\_\_\_\_

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

(Insert other relevant statements)

## SIGNATURE AND ACKNOWLEDGMENT

Agent's Signature: \_\_\_\_\_ (Date)

Agent's Name Printed: \_\_\_\_\_

Agent's Address: \_\_\_\_\_

\_\_\_\_\_

Agent's Telephone Number: \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_ (Date)

by

\_\_\_\_\_ (Name of Agent).

Signature of notarial officer:

\_\_\_\_\_

(Seal, if any)

My commission expires: \_\_\_\_\_."

## ARTICLE 4 MISCELLANEOUS PROVISIONS

### **Chapter 135 Section 401 Laws 2007**

Section 401. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Uniform Power of Attorney Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

### **Chapter 135 Section 402 Laws 2007**

Section 402. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Uniform Power of Attorney Act modifies, limits and

supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

### **Chapter 135 Section 403 Laws 2007**

Section 403. EFFECT ON EXISTING POWERS OF ATTORNEY.--Except as otherwise provided in the Uniform Power of Attorney Act, on July 1, 2007:

A. the Uniform Power of Attorney Act applies to a power of attorney created before, on or after July 1, 2007;

B. the Uniform Power of Attorney Act applies to a judicial proceeding concerning a power of attorney commenced on or after July 1, 2007;

C. the Uniform Power of Attorney Act applies to a judicial proceeding concerning a power of attorney commenced before July 1, 2007 unless the court finds that application of a provision of that act would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies; and

D. an act done before July 1, 2007 is not affected by the Uniform Power of Attorney Act.

### **Chapter 135 Section 404 Laws 2007**

Section 404. REPEAL.--Sections 45-5-501 through 45-5-617 NMSA 1978 (being Laws 1995, Chapter 210, Sections 58 through 79) are repealed.

### **Chapter 135 Section 405 Laws 2007**

Section 405. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 231, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 136**

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING FOR A STANDARDIZED SPECIAL VEHICLE REGISTRATION PLATE WITH A LOGO FOR THE CUMBRES AND TOLTEC SCENIC RAILROAD; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005; MAKING AN APPROPRIATION.

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

## **Chapter 136 Section 1 Laws 2007**

Section 1. A new section of the Motor Vehicle Code is enacted to read:

"CUMBRES AND TOLTEC SCENIC RAILROAD SPECIAL REGISTRATION PLATE--PROCEDURES--FEE.--

A. The division shall establish and issue a standardized special registration plate with a logo specified in Section 66-3-424 NMSA 1978, featuring artwork related to the Cumbres and Toltec scenic railroad. The division shall adopt procedures for application for and issuance of the special Cumbres and Toltec scenic railroad registration plate with a logo.

B. The division, in consultation with the Cumbres and Toltec scenic railroad commission, shall determine the color and design of the special Cumbres and Toltec scenic railroad registration logo, and the division shall provide for its issuance.

C. For a fee of forty dollars (\$40.00), which shall be in addition to the regular motor vehicle registration fees, any owner of a motor vehicle may apply for the issuance of a Cumbres and Toltec scenic railroad registration plate. The owner of a motor vehicle shall apply and pay a fee each year that the owner wishes to retain and renew the Cumbres and Toltec scenic railroad registration plate.

D. The revenue from the special Cumbres and Toltec scenic railroad registration plates shall be distributed as follows:

(1) fifteen dollars (\$15.00) of the fee collected the first year a special Cumbres and Toltec scenic railroad registration plate is issued shall be retained by the division and is appropriated to the division for the manufacture and issuance of the registration plates. Thereafter, that amount of each fee shall be paid to the state treasurer for credit to the motor vehicle suspense fund for distribution in accordance with Section 66-6-23 NMSA 1978; and

(2) twenty-five dollars (\$25.00) of the fee collected for each registration plate shall be distributed to the Cumbres and Toltec scenic railroad commission."

## **Chapter 136 Section 2 Laws 2007**

Section 2. Section 66-6-23 NMSA 1978 (being Laws 1978, Chapter 35, Section 358, as amended by Laws 2005, Chapter 20, Section 3 and by Laws 2005, Chapter 171, Section 21) is amended to read:

"66-6-23. DISPOSITION OF FEES.--

A. After the necessary disbursements for refunds and other purposes have been made, the money remaining in the motor vehicle suspense fund, except for remittances received within the previous two months that are unidentified as to source or disposition, shall be distributed as follows:

(1) to each municipality, county or fee agent operating a motor vehicle field office:

(a) an amount equal to six dollars (\$6.00) per driver's license and five dollars (\$5.00) per identification card or motor vehicle or motorboat registration or title transaction performed; and

(b) for each such agent determined by the secretary pursuant to Section 66-2-16 NMSA 1978 to have performed ten thousand or more transactions in the preceding fiscal year, other than a class A county with a population exceeding three hundred thousand or a municipality with a population exceeding three hundred thousand that has been designated as an agent pursuant to Section 66-2-14.1 NMSA 1978, an amount equal to one dollar (\$1.00) in addition to the amount distributed pursuant to Subparagraph (a) of this paragraph for each driver's license, identification card, motor vehicle registration, motorboat registration or title transaction performed;

(2) to each municipality or county, other than a class A county with a population exceeding three hundred thousand or a municipality with a population exceeding three hundred thousand that has been designated as an agent pursuant to Section 66-2-14.1 NMSA 1978, operating a motor vehicle field office, an amount equal to one dollar fifty cents (\$1.50) for each administrative service fee remitted by that county or municipality to the department pursuant to the provisions of Subsection A of Section 66-2-16 NMSA 1978;

(3) to the state road fund:

(a) an amount equal to the fees collected pursuant to Sections 66-7-413 and 66-7-413.4 NMSA 1978;

(b) an amount equal to the fee collected pursuant to Section 66-3-417 NMSA 1978;

(c) the remainder of each driver's license fee collected by the department employees from an applicant to whom a license is granted after deducting

from the driver's license fee the amount of the distribution authorized in Paragraph (1) of this subsection with respect to that collected driver's license fee; and

(d) an amount equal to fifty percent of the fees collected pursuant to Section 66-6-19 NMSA 1978;

(4) to the local governments road fund, the amount of the fees collected pursuant to Subsection B of Section 66-5-33.1 NMSA 1978 and the remainder of the fees collected pursuant to Subsection A of Section 66-5-408 NMSA 1978;

(5) to the department:

(a) any amounts reimbursed to the department pursuant to Subsection C of Section 66-2-14.1 NMSA 1978;

(b) an amount equal to two dollars (\$2.00) of each motorcycle registration fee collected pursuant to Section 66-6-1 NMSA 1978;

(c) an amount equal to the fees provided for in Subsection D of Section 66-2-7 NMSA 1978, Subsection E of Section 66-2-16 NMSA 1978, Subsections J and K of Section 66-3-6 NMSA 1978 other than the administrative fee, Subsection C of Section 66-5-44 NMSA 1978 and Subsection B of Section 66-5-408 NMSA 1978;

(d) the amounts due to the department for the manufacture and issuance of a special registration plate collected pursuant to the section of law authorizing the issuance of the specialty plate;

(e) an amount equal to the registration fees collected pursuant to Section 66-6-6.1 NMSA 1978 for the purposes of enforcing the provisions of the Mandatory Financial Responsibility Act and for creating and maintaining a multilanguage noncommercial driver's license testing program; and after those purposes are met, the balance of the registration fees shall be distributed to the department to defray the costs of operating the motor vehicle division;

(f) an amount equal to fifty cents (\$.50) for each administrative fee remitted to the department by a county or municipality operating a motor vehicle field office pursuant to Subsection A of Section 66-2-16 NMSA 1978;

(g) an amount equal to one dollar twenty-five cents (\$1.25) for each administrative fee collected by the department or any of its agents other than a county or municipality operating a motor vehicle field office pursuant to Subsection A of Section 66-2-16 NMSA 1978; and

(h) an amount equal to the royalties or other consideration paid by commercial users of databases of motor vehicle-related records of the department pursuant to Subsection C of Section 14-3-15.1 NMSA 1978 for the purpose of defraying

the costs of maintaining databases of motor vehicle-related records of the department; and after that purpose is met, the balance of the royalties and other consideration shall be distributed to the department to defray the costs of operating the motor vehicle division;

(6) to each New Mexico institution of higher education, an amount equal to that part of the fees distributed pursuant to Paragraph (2) of Subsection D of Section 66-3-416 NMSA 1978 proportionate to the number of special registration plates issued in the name of the institution to all such special registration plates issued in the name of all institutions;

(7) to the armed forces veterans license fund, the amount to be distributed pursuant to Paragraph (2) of Subsection E of Section 66-3-419 NMSA 1978;

(8) to the children's trust fund, the amount to be distributed pursuant to Paragraph (2) of Subsection D of Section 66-3-420 NMSA 1978;

(9) to the department of transportation, an amount equal to the fees collected pursuant to Section

66-5-35 NMSA 1978;

(10) to the state equalization guarantee distribution made annually pursuant to the general appropriation act, an amount equal to one hundred percent of the driver safety fee collected pursuant to Subsection D of Section 66-5-44 NMSA 1978;

(11) to the motorcycle training fund, two dollars (\$2.00) of each motorcycle registration fee collected pursuant to Section 66-6-1 NMSA 1978;

(12) to the recycling and illegal dumping fund:

(a) fifty cents (\$.50) of the tire recycling fee collected pursuant to the provisions of Section 66-6-1 NMSA 1978;

(b) fifty cents (\$.50) of each of the tire recycling fees collected pursuant to the provisions of Sections 66-6-2 and 66-6-4 NMSA 1978; and

(c) twenty-five cents (\$.25) of each of the tire recycling fees collected pursuant to Sections 66-6-5 and 66-6-8 NMSA 1978;

(13) to the highway infrastructure fund:

(a) fifty cents (\$.50) of the tire recycling fee collected pursuant to the provisions of Section 66-6-1 NMSA 1978;

(b) one dollar (\$1.00) of each of the tire recycling fees collected pursuant to the provisions of Sections 66-6-2 and 66-6-4 NMSA 1978; and

(c) twenty-five cents (\$.25) of each of the tire recycling fees collected pursuant to Sections 66-6-5 and 66-6-8 NMSA 1978;

(14) to each county, an amount equal to fifty percent of the fees collected pursuant to Section 66-6-19 NMSA 1978 multiplied by a fraction, the numerator of which is the total mileage of public roads maintained by the county and the denominator of which is the total mileage of public roads maintained by all counties in the state;

(15) to the litter control and beautification fund, an amount equal to the fees collected pursuant to Section 66-6-6.2 NMSA 1978;

(16) to the local government division of the department of finance and administration, an amount equal to the fees collected pursuant to Section 66-3-424.3 NMSA 1978 for distribution to each county to support animal control spaying and neutering programs in an amount proportionate to the number of residents of that county who have purchased pet care special registration plates pursuant to Section 66-3-424.3 NMSA 1978; and

(17) to the Cumbres and Toltec scenic railroad commission, twenty-five dollars (\$25.00) collected pursuant to the Cumbres and Toltec scenic railroad special registration plate.

B. The balance, exclusive of unidentified remittances, shall be distributed in accordance with Section 66-6-23.1 NMSA 1978.

C. If any of the paragraphs, subsections or sections referred to in Subsection A of this section are recompiled or otherwise redesignated without a corresponding change to Subsection A of this section, the reference in Subsection A of this section shall be construed to be the recompiled or redesignated paragraph, subsection or section."

## **Chapter 136 Section 3 Laws 2007**

Section 3.--EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2008.

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House Bill 244, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 137**

## AN ACT

RELATING TO UNEMPLOYMENT COMPENSATION; INCREASING THE WEEKLY BENEFIT AMOUNT; INCREASING THE DEPENDENT ALLOWANCE BENEFIT; CHANGING THE CRITERIA FOR CONTRIBUTION RATE SCHEDULES; PROVIDING A CERTAIN CONTRIBUTION RATE SCHEDULE FOR A LIMITED PERIOD; CREATING THE STATE UNEMPLOYMENT TRUST FUND; PROVIDING DISTRIBUTIONS TO THE FUND; REPEALING CERTAIN CONTINGENT SECTIONS OF THE UNEMPLOYMENT COMPENSATION LAW; MAKING APPROPRIATIONS.

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

### **Chapter 137 Section 1 Laws 2007**

Section 1. Section 51-1-4 NMSA 1978 (being Laws 2003, Chapter 47, Section 8, as amended) is amended to read:

"51-1-4. MONETARY COMPUTATION OF BENEFITS--PAYMENT GENERALLY.--

A. All benefits provided herein are payable from the unemployment compensation fund. All benefits shall be paid in accordance with rules prescribed by the secretary through employment offices or other agencies as the secretary approves by general rule.

B. Weekly benefits shall be as follows:

(1) an individual's "weekly benefit amount" is an amount equal to fifty-three and one-half percent of the average weekly wage for insured work paid to the individual in that quarter of the individual's base period in which total wages were highest. No benefit as so computed may be less than ten percent or more than fifty-three and one-half percent of the state's average weekly wage for all insured work. The state's average weekly wage shall be computed from all wages reported to the department from employing units in accordance with rules of the secretary for the period ending June 30 of each calendar year divided by the total number of covered employees divided by fifty-two, effective for the benefit years commencing on or after the first Sunday of the following calendar year. An individual is not eligible to receive benefits unless the individual has wages in at least two quarters of that individual's base period. For the purposes of this subsection, "total wages" means all remuneration for insured work, including commissions and bonuses and the cash value of all remuneration in a medium other than cash;

(2) an eligible individual who is unemployed in any week during which the individual is in a continued claims status shall be paid, with respect to the week, a benefit in an amount equal to the individual's weekly benefit amount, less that part of the wages, if any, or earnings from self-employment, payable to the individual with respect

to such week that is in excess of one-fifth of the individual's weekly benefit amount. For purposes of this subsection only, "wages" includes all remuneration for services actually performed in a week for which benefits are claimed, vacation pay for a period for which the individual has a definite return-to-work date, wages in lieu of notice and back pay for loss of employment but does not include payments through a court for time spent in jury service;

(3) notwithstanding any other provision of this section, an eligible individual who, pursuant to a plan financed in whole or in part by a base-period employer of the individual, is receiving a governmental or other pension, retirement pay, annuity or any other similar periodic payment that is based on the previous work of the individual and who is unemployed with respect to any week ending subsequent to April 9, 1981 shall be paid with respect to the week, in accordance with rules prescribed by the secretary, compensation equal to the individual's weekly benefit amount reduced, but not below zero, by the prorated amount of the pension, retirement pay, annuity or other similar periodic payment that exceeds the percentage contributed to the plan by the eligible individual. The maximum benefit amount payable to the eligible individual shall be an amount not more than twenty-six times the individual's reduced weekly benefit amount. If payments referred to in this section are being received by an individual under the federal Social Security Act, the division shall take into account the individual's contribution and make no reduction in the weekly benefit amount;

(4) in the case of a lump-sum payment of a pension, retirement or retired pay, annuity or other similar payment by a base-period employer that is based on the previous work of the individual, the payment shall be allocated, in accordance with rules prescribed by the secretary, and shall reduce the amount of unemployment compensation paid, but not below zero, in accordance with Paragraph (3) of this subsection; and

(5) the retroactive payment of a pension, retirement or retired pay, annuity or any other similar periodic payment as provided in Paragraphs (3) and (4) of this subsection attributable to weeks during which an individual has claimed or has been paid unemployment compensation shall be allocated to those weeks and shall reduce the amount of unemployment compensation for those weeks, but not below zero, by an amount equal to the prorated amount of the pension. Any overpayment of unemployment compensation benefits resulting from the application of the provisions of this paragraph shall be recovered from the claimant in accordance with the provisions of Section 51-1-38 NMSA 1978.

C. An individual otherwise eligible for benefits shall be paid for each week of unemployment, in addition to the amount payable under Subsection B of this section, the sum of twenty-five dollars (\$25.00) for each unemancipated child under the age of eighteen, up to a maximum of four and subject to the maximum stated in Subsection D of this section, of the individual who is in fact dependent upon and wholly or mainly supported by the individual, including:

(1) a child in the individual's custody pending the adjudication of a petition filed by the individual for the adoption of the child in a court of competent jurisdiction; or

(2) a child for whom the individual, under a decree or order from a court of competent jurisdiction, is required to contribute to the child's support and for whom no other person is receiving allowances under the Unemployment Compensation Law if the child is domiciled within the United States or its territories or possessions, the payment to be withheld and paid pursuant to Section 51-1-37.1 NMSA 1978.

D. Dependency benefits shall not exceed fifty percent of the individual's weekly benefit rate. The amount of dependency benefits determined as of the beginning of an individual's benefit year shall not be reduced for the duration of the benefit year, but this provision does not prevent the transfer of dependents' benefits from one spouse to another in accordance with this subsection. If both the husband and wife receive benefits with respect to a week of unemployment, only one of them is entitled to a dependency allowance with respect to a child. The division shall prescribe standards as to who may receive a dependency allowance when both the husband and wife are eligible to receive unemployment compensation benefits. Dependency benefits shall not be paid unless the individual submits documentation satisfactory to the division establishing the existence of the claimed dependent. If the provisions of this subsection are satisfied, an otherwise eligible individual who has been appointed guardian of a dependent child by a court of competent jurisdiction shall be paid dependency benefits.

E. An otherwise eligible individual is entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of twenty-six times the individual's weekly benefit amount, plus any dependency benefit amount pursuant to Subsections C and D of this section, or sixty percent of the individual's wages for insured work paid during the individual's base period.

F. A benefit as determined in Subsection B or C of this section, if not a multiple of one dollar (\$1.00), shall be rounded to the next lower multiple of one dollar (\$1.00).

G. The secretary may prescribe rules to provide for the payment of benefits that are due and payable to the legal representative, dependents, relatives or next of kin of claimants since deceased. These rules need not conform with the laws governing successions, and the payment shall be deemed a valid payment to the same extent as if made under a formal administration of the succession of the claimant.

H. The division, on its own initiative, may reconsider a monetary determination whenever it is determined that an error in computation or identity has occurred or that wages of the claimant pertinent to such determination but not considered have been newly discovered or that the benefits have been allowed or denied on the basis of misrepresentation of fact, but no redetermination shall be made after one year from the date of the original monetary determination. Notice of a redetermination shall be given to all interested parties and shall be subject to an appeal in the same manner as the original determination. In the event that an appeal involving an original monetary

determination is pending at the time a redetermination is issued, the appeal, unless withdrawn, shall be treated as an appeal from redetermination."

## **Chapter 137 Section 2 Laws 2007**

Section 2. Section 51-1-11 NMSA 1978 (being Laws 2003, Chapter 47, Section 11, as amended by Laws 2005, Chapter 3, Section 4 and further amended by Laws 2005, Chapter 255, Section 2) is amended to read:

### **"51-1-11. FUTURE RATES BASED ON BENEFIT EXPERIENCE.--**

A. The division shall maintain a separate account for each contributing employer and shall credit the contributing employer's account with all contributions paid by that employer under the Unemployment Compensation Law. Nothing in the Unemployment Compensation Law shall be construed to grant an employer or individuals in the employer's service prior claims or rights to the amounts paid by the employer into the fund.

B. Benefits paid to an individual shall be charged against the accounts of the individual's base-period employers on a pro rata basis according to the proportion of the individual's total base-period wages received from each employer, except that no benefits paid to a claimant as extended benefits under the provisions of Section 51-1-48 NMSA 1978 shall be charged to the account of any base-period employer who is not on a reimbursable basis and who is not a governmental entity and, except as the secretary shall by rule prescribe otherwise, in the case of benefits paid to an individual who:

(1) left the employ of a base-period employer who is not on a reimbursable basis voluntarily without good cause in connection with the individual's employment;

(2) was discharged from the employment of a base-period employer who is not on a reimbursable basis for misconduct connected with the individual's employment;

(3) is employed part time by a base-period employer who is not on a reimbursable basis and who continues to furnish the individual the same part-time work while the individual is separated from full-time work for a nondisqualifying reason; or

(4) received benefits based upon wages earned from a base-period employer who is not on a reimbursable basis while attending approved training or school on a full-time basis under the provisions of Subsection E of Section 51-1-5 NMSA 1978.

C. The division shall not charge a contributing or reimbursing base-period employer's account with any portion of benefit amounts that the division can bill to or recover from the federal government as either regular or extended benefits.

D. The division shall not charge a contributing base-period employer's account with any portion of benefits paid to an individual for dependent allowance or because the individual to whom benefits are paid:

(1) separated from employment due to domestic abuse, as "domestic abuse" is defined in Section 40-13-2 NMSA 1978;

(2) is enrolled in approved training or is attending school on a full-time basis; or

(3) voluntarily left work to relocate because of a spouse, who is in the military service of the United States or the New Mexico national guard, receiving permanent change of station orders, activation orders or unit deployment orders.

E. All contributions to the fund shall be pooled and available to pay benefits to any individual entitled thereto, irrespective of the source of the contributions.

F. For each calendar year, if, as of the computation date for that year, an employer's account has been chargeable with benefits throughout the preceding thirty-six months, the secretary shall classify the employer in accordance with its actual experience of benefits charged against its accounts. For such an employer, the contribution rate shall be determined pursuant to Subsection I of this section on the basis of the employer's record and the condition of the fund as of the computation date for the calendar year. If, as of the computation date for a calendar year, an employer's account has not been chargeable with benefits throughout the preceding thirty-six months, the contribution rate for that employer for the calendar year shall be two percent, except that:

(1) an individual, type of organization or employing unit that acquires all or part of the trade or business of another employing unit, pursuant to Paragraphs (2) and (3) of Subsection E of Section 51-1-42 NMSA 1978, that has a rate of contribution less than two percent shall be entitled to the transfer of the reduced rate to the extent permitted under Subsection H of this section;

(2) an employer that, at the time of establishing an account, is in business in another state or states and that is not currently doing business in New Mexico may elect, pursuant to Paragraph (3) of this subsection, to receive a beginning contribution rate of two percent or a contribution rate based on the current contribution rate schedule in Paragraph (4) of Subsection I of this section, whichever is lower, if:

(a) the employer has been in operation in the other state or states for at least three years immediately preceding the date of becoming a liable employer in New Mexico, throughout which an individual in the employer's employ could have received benefits if eligible; and

(b) the employer provides the authenticated account history as defined by rule of the secretary from information accumulated from operations in the other state or all the other states to compute a current New Mexico rate; and

(3) the election authorized in Paragraph (2) of this subsection shall be made in writing within thirty days after receiving notice of New Mexico liability and, if not made timely, a two percent rate will be assigned; if the election is made timely, the employer's account will receive the lesser of the computed rate determined by the condition of the account for the computation date immediately preceding the New Mexico liable date, or two percent; rates for subsequent years will be determined by the condition of the account for the computation date.

G. An employer may make voluntary payments in addition to the contributions required under the Unemployment Compensation Law, which shall be credited to the employer's account in accordance with department rule. The voluntary payments shall be included in the employer's account as of the employer's most recent computation date if they are made on or before the following March 1. Voluntary payments when accepted from an employer shall not be refunded in whole or in part.

H. In the case of a transfer of an employing enterprise, notwithstanding any other provision of law, the experience history of the transferred enterprise shall be transferred from the predecessor employer to the successor under the following conditions and in accordance with the applicable rules of the secretary:

(1) as used in this subsection:

(a) "employing enterprise" means a business activity engaged in by a contributing employing unit in which one or more persons have been employed within the current or the three preceding calendar quarters. An "employing enterprise" includes the employer's workforce;

(b) "predecessor" means the owner and operator of an employing enterprise immediately prior to the transfer of such enterprise;

(c) "successor" means any person that acquires an employing enterprise and continues to operate such business entity;

(d) "experience history" means the experience rating record and reserve account, including the actual contributions, benefit charges and payroll experience of the employing enterprise;

(e) "common ownership" means that two or more businesses are substantially owned, managed or controlled by the same person or persons;

(f) "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition involved; and

(g) "violates or attempts to violate" includes an intent to evade, a misrepresentation or a willful nondisclosure;

(2) except as otherwise provided in this subsection, for the purpose of this subsection, two or more employers who are parties to or the subject of any transaction involving the transfer of an employing enterprise shall be deemed to be a single employer and the experience history of the employing enterprise shall be transferred to the successor employer if the successor employer has acquired by the transaction all of the business enterprises of the predecessor; provided that:

(a) all contributions, interest and penalties due from the predecessor employer have been paid;

(b) notice of the transfer has been given in accordance with the rules of the secretary during the calendar year of the transaction transferring the employing enterprise or the date of the actual transfer of control and operation of the employing enterprise;

(c) the successor shall notify the division of the acquisition on or before the due date of the successor's first wage and contribution report. If the successor employer fails to notify the division of the acquisition within this time limit, the division, when it receives actual notice, shall effect the transfer of the experience history and applicable rate of contribution retroactively to the date of the acquisition, and the successor shall pay a penalty of fifty dollars (\$50.00); and

(d) where the transaction involves only a merger, consolidation or other form of reorganization without a substantial change in the ownership and controlling interest of the business entity, as determined by the secretary, the limitations on transfers stated in Subparagraphs (a), (b) and (c) of this paragraph shall not apply. A party to a merger, consolidation or other form of reorganization described in this subparagraph shall not be relieved of liability for any contributions, interest or penalties due and owing from the employing enterprise at the time of the merger, consolidation or other form of reorganization;

(3) the applicable experience history may be transferred to the successor in the case of a partial transfer of an employing enterprise if the successor has acquired one or more of the several employing enterprises of a predecessor but not all of the employing enterprises of the predecessor and each employing enterprise so acquired was operated by the predecessor as a separate store, factory, shop or other separate employing enterprise and the predecessor, throughout the entire period of the contribution with liability applicable to each enterprise transferred, has maintained and preserved payroll records that, together with records of contribution liability and benefit chargeability, can be separated by the parties from the enterprises retained by the predecessor to the satisfaction of the secretary or the secretary's delegate. A partial experience history transfer will be made only if the successor:

(a) notifies the division of the acquisition, in writing, not later than the due date of the successor's first quarterly wage and contribution report after the effective date of the acquisition;

(b) files an application provided by the division that contains the endorsement of the predecessor within thirty days from the delivery or mailing of such application by the division to the successor's last known address; and

(c) files with the application a Form ES-903A or its equivalent with a schedule of the name and social security number of and the wages paid to and the contributions paid for each employee for the three and one-half year period preceding the computation date as defined in Subparagraph (d) of Paragraph (3) of Subsection I of this section through the date of transfer or such lesser period as the enterprises transferred may have been in operation. The application and Form ES-903A shall be supported by the predecessor's permanent employment records, which shall be available for audit by the division. The application and Form ES-903A shall be reviewed by the division and, upon approval, the percentage of the predecessor's experience history attributable to the enterprises transferred shall be transferred to the successor. The percentage shall be obtained by dividing the taxable payrolls of the transferred enterprises for such three and one-half year period preceding the date of computation or such lesser period as the enterprises transferred may have been in operation by the predecessor's entire payroll;

(4) if, at the time of a transfer of an employing enterprise in whole or in part, both the predecessor and the successor are under common ownership, then the experience history attributable to the transferred business shall also be transferred to and combined with the experience history attributable to the successor employer. The rates of both employers shall be recalculated and made effective immediately upon the date of the transfer;

(5) whenever a person, who is not currently an employer, acquires the trade or business of an employing enterprise, the experience history of the acquired business shall not be transferred to the successor if the secretary or the secretary's designee finds that the successor acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, the successor shall be assigned the applicable new employer rate pursuant to this section. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contribution, the secretary or the secretary's designee shall consider:

(a) the cost of acquiring the business;

(b) whether the person continued the business enterprise of the acquired business;

(c) how long such business enterprise was continued; and

(d) whether a substantial number of new employees were hired for performance of duties unrelated to those that the business activity conducted prior to acquisition;

(6) if, following a transfer of experience history pursuant to this subsection, the department determines that a substantial purpose of the transfer of the employing enterprise was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate assigned to the combined account;

(7) the secretary shall adopt such rules as are necessary to interpret and carry out the provisions of this subsection, including rules that:

(a) describe how experience history is to be transferred; and

(b) establish procedures to identify the type of transfer or acquisition of an employing enterprise; and

(8) a person who knowingly violates or attempts to violate a rule adopted pursuant to Paragraph (7) of this subsection, who transfers or acquires, or attempts to transfer or acquire, an employing enterprise for the sole or primary purpose of obtaining a reduced liability for contributions or who knowingly advises another person to violate a rule adopted pursuant to Paragraph (7) of this subsection or to transfer or acquire an employing enterprise for the sole or primary purpose of obtaining a reduced liability for contributions is guilty of a misdemeanor and shall be punished by a fine of not less than one thousand five hundred dollars (\$1,500) or more than three thousand dollars (\$3,000) or, if an individual, by imprisonment for a definite term not to exceed ninety days or both. In addition, such a person shall be subject to the following civil penalty imposed by the secretary:

(a) if the person is an employer, the person shall be assigned the highest contribution rate established by the provisions of this section for the calendar year in which the violation occurs and the three subsequent calendar years; provided that, if the difference between the increased penalty rate and the rate otherwise applicable would be less than two percent of the employer's payroll, the contribution rate shall be increased by two percent of the employer's payroll for the calendar year in which the violation occurs and the three subsequent calendar years; or

(b) if the person is not an employer, the secretary may impose a civil penalty not to exceed three thousand dollars (\$3,000).

I. For each calendar year, if, as of the computation date for that year, an employer's account has been chargeable with benefits throughout the preceding thirty-six months, the contribution rate for that employer shall be determined as follows:

(1) the total assets in the fund and the total of the last annual payrolls of all employers subject to contributions as of the computation date for each year shall be determined. These annual totals are here called "the fund" and "total payrolls". For each year, the "reserve" of each employer shall be fixed by the excess of the employer's total contributions over total benefit charges computed as a percentage of the employer's average payroll reported for contributions. The determination of each employer's annual rate, computed as of the computation date for each calendar year, shall be made by matching the employer's reserve as shown in the reserve column with the corresponding rate in the rate column of the applicable rate schedule of the table provided in Paragraph (4) or (5) of this subsection;

(2) for each calendar year after 2010, except as otherwise provided, each employer's rate shall be the corresponding rate in:

(a) Schedule 0 of the table provided in Paragraph (4) of this subsection if the fund equals at least two and three-tenths percent of the total payrolls;

(b) Schedule 1 of the table provided in Paragraph (4) of this subsection if the fund equals less than two and three-tenths percent but not less than one and seven-tenths percent of the total payrolls;

(c) Schedule 2 of the table provided in Paragraph (4) of this subsection if the fund equals less than one and seven-tenths percent but not less than one and three-tenths percent of the total payrolls;

(d) Schedule 3 of the table provided in Paragraph (4) of this subsection if the fund equals less than one and three-tenths percent but not less than one percent of the total payrolls;

(e) Schedule 4 of the table provided in Paragraph (4) of this subsection if the fund equals less than one percent but not less than seven-tenths percent of the total payrolls;

(f) Schedule 5 of the table provided in Paragraph (4) of this subsection if the fund equals less than seven-tenths percent but not less than three-tenths percent of the total payrolls; or

(g) Schedule 6 of the table provided in Paragraph (4) of this subsection if the fund equals less than three-tenths percent of the total payrolls;

(3) as used in this section:

(a) "annual payroll" means the total amount of remuneration from an employer for employment during a twelve-month period ending on a computation date, and "average payroll" means the average of the last three annual payrolls;

(b) "base-period wages" means the wages of an individual for insured work during the individual's base period on the basis of which the individual's benefit rights were determined;

(c) "base-period employers" means the employers of an individual during the individual's base period; and

(d) "computation date" for each calendar year means the close of business on June 30 of the preceding calendar year;

(4) table of employer reserves and contribution rate schedules:

Employer Reserve	Contribution Schedule 0	Contribution Schedule 1	Contribution Schedule 2	Contribution Schedule 3
10.0% and over	0.03%	0.05%	0.1%	0.6%
9.0%-9.9%	0.06%	0.1%	0.2%	0.9%
8.0%-8.9%	0.09%	0.2%	0.4%	1.2%
7.0%-7.9%	0.10%	0.4%	0.6%	1.5%
6.0%-6.9%	0.30%	0.6%	0.8%	1.8%
5.0%-5.9%	0.50%	0.8%	1.1%	2.1%
4.0%-4.9%	0.80%	1.1%	1.4%	2.4%
3.0%-3.9%	1.20%	1.4%	1.7%	2.7%
2.0%-2.9%	1.50%	1.7%	2.0%	3.0%
1.0%-1.9%	1.80%	2.0%	2.4%	3.3%
0.9%-0.0%	2.40%	2.4%	3.3%	3.6%
(-0.1%)-(-0.5%)	3.30%	3.3%	3.6%	3.9%
(-0.5%)-(-1.0%)	4.20%	4.2%	4.2%	4.2%
(-1.0%)-(-2.0%)	5.00%	5.0%	5.0%	5.0%
Under (-2.0%)	5.40%	5.4%	5.4%	5.4%

Employer Reserve	Contribution Schedule 4	Contribution Schedule 5	Contribution Schedule 6
10.0% and over	0.9%	1.2%	2.7%
9.0%-9.9%	1.2%	1.5%	2.7%
8.0%-8.9%	1.5%	1.8%	2.7%
7.0%-7.9%	1.8%	2.1%	2.7%
6.0%-6.9%	2.1%	2.4%	2.7%
5.0%-5.9%	2.4%	2.7%	3.0%
4.0%-4.9%	2.7%	3.0%	3.3%
3.0%-3.9%	3.0%	3.3%	3.6%
2.0%-2.9%	3.3%	3.6%	3.9%
1.0%-1.9%	3.6%	3.9%	4.2%
0.9%-0.0%	3.9%	4.2%	4.5%
(-0.1%)-(-0.5%)	4.2%	4.5%	4.8%
(-0.5%)-(-1.0%)	4.5%	4.8%	5.1%
(-1.0%)-(-2.0%)	5.0%	5.1%	5.3%
Under (-2.0%)	5.4%	5.4%	5.4%; and

(5) from July 1, 2007 through December 31, 2010, each employer making contributions pursuant to this subsection shall make a contribution at the rate specified in contribution schedule A and a contribution at the rate specified in contribution schedule B for the employer's reserve for each of the following periods. Contributions made pursuant to contribution schedule A shall be deposited in the unemployment compensation fund and contributions made pursuant to contribution schedule B shall be deposited in the state unemployment trust fund:

(a) for the period July 1, 2007 through December 31, 2008:

Employer	Contribution	Contribution
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Reserve	Schedule A	Schedule B
10.0% and over	0.015%	0.015%
9.0%-9.9%	0.03%	0.03%
8.0%-8.9%	0.045%	0.045%
7.0%-7.9%	0.05%	0.05%
6.0%-6.9%	0.15%	0.15%
5.0%-5.9%	0.25%	0.25%
4.0%-4.9%	0.4%	0.4%
3.0%-3.9%	0.6%	0.6%
2.0%-2.9%	0.75%	0.75%
1.0%-1.9%	0.9%	0.9%
0.9%-0.0%	1.2%	1.2%
(-0.1%)(-0.5%)	1.65%	1.65%
(-0.5%)(-1.0%)	2.1%	2.1%
(-1.0%)(-2.0%)	2.5%	2.5%
Under (-2.0%)	5.4%	0.0%

(b) for the period January 1, 2009 through December 31, 2009:

Employer	Contribution	Contribution
Reserve	Schedule A	Schedule B
10.0% and over	0.018%	0.012%
9.0%-9.9%	0.036%	0.024%
8.0%-8.9%	0.054%	0.036%
7.0%-7.9%	0.06%	0.04%

6.0%-6.9%	0.18%	0.12%
5.0%-5.9%	0.3%	0.2%
4.0%-4.9%	0.48%	0.32%
3.0%-3.9%	0.72%	0.48%
2.0%-2.9%	0.9%	0.6%
1.0%-1.9%	1.08%	0.72%
0.9%-0.0%	1.44%	0.96%
(-0.1%)(-0.5%)	1.98%	1.32%
(-0.5%)(-1.0%)	2.52%	1.68%
(-1.0%)(-2.0%)	3.0%	2.0%
Under (-2.0%)	5.4%	0.0%

(c) for the period January 1, 2010 through December 31, 2010:

Employer	Contribution	Contribution
Reserve	Schedule A	Schedule B
10.0% and over	0.0195%	0.0105%
9.0%-9.9%	0.039%	0.021%
8.0%-8.9%	0.0585%	0.0315%
7.0%-7.9%	0.065%	0.035%
6.0%-6.9%	0.195%	0.105%
5.0%-5.9%	0.325%	0.175%
4.0%-4.9%	0.52%	0.28%
3.0%-3.9%	0.78%	0.42%
2.0%-2.9%	0.975%	0.525%

1.0%-1.9%	1.17%	0.63%
0.9%-0.0%	1.56%	0.84%
(-0.1%)-(0.5%)	2.145%	1.155%
(-0.5%)-(1.0%)	2.73%	1.47%
(-1.0%)-(2.0%)	3.25%	1.75%
Under (-2.0%)	5.4%	0.0%.

J. The division shall promptly notify each employer of the employer's rate of contributions as determined for any calendar year pursuant to this section. Such notification shall include the amount determined as the employer's average payroll, the total of all of the employer's contributions paid on the employer's behalf and credited to the employer's account for all past years and total benefits charged to the employer's account for all such years. Such determination shall become conclusive and binding upon the employer unless, within thirty days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within thirty days after the delivery of such notice, the employer files an application for review and redetermination, setting forth the employer's reason therefor. The employer shall be granted an opportunity for a fair hearing in accordance with rules prescribed by the secretary, but an employer shall not have standing, in any proceeding involving the employer's rate of contributions or contribution liability, to contest the chargeability to the employer's account of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was determined. The employer shall be promptly notified of the decision on the employer's application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

K. The division shall provide each contributing employer, within ninety days of the end of each calendar quarter, a written determination of benefits chargeable to the employer's account. Such determination shall become conclusive and binding upon the employer for all purposes unless, within thirty days after the mailing of the determination to the employer's last known address or in the absence of mailing, within thirty days after the delivery of such determination, the employer files an application for review and redetermination, setting forth the employer's reason therefor. The employer shall be granted an opportunity for a fair hearing in accordance with rules prescribed by the

secretary, but an employer shall not have standing in any proceeding involving the employer's contribution liability to contest the chargeability to the employer's account of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was determined. The employer shall be promptly notified of the decision on the employer's application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

L. The contributions, together with interest and penalties thereon imposed by the Unemployment Compensation Law, shall not be assessed nor shall action to collect the same be commenced more than four years after a report showing the amount of the contributions was due. In the case of a false or fraudulent contribution report with intent to evade contributions or a willful failure to file a report of all contributions due, the contributions, together with interest and penalties thereon, may be assessed or an action to collect such contributions may be begun at any time. Before the expiration of such period of limitation, the employer and the secretary may agree in writing to an extension thereof and the period so agreed on may be extended by subsequent agreements in writing. In any case where the assessment has been made and action to collect has been commenced within four years of the due date of any contribution, interest or penalty, including the filing of a warrant of lien by the secretary pursuant to Section 51-1-36 NMSA 1978, such action shall not be subject to any period of limitation.

M. The secretary shall correct any error in the determination of an employer's rate of contribution during the calendar year to which the erroneous rate applies, notwithstanding that notification of the employer's rate of contribution may have been issued and contributions paid pursuant to the notification. Upon issuance by the division of a corrected rate of contribution, the employer shall have the same rights to review and redetermination as provided in Subsection J of this section.

N. Any interest required to be paid on advances to this state's unemployment compensation fund under Title 12 of the Social Security Act shall be paid in a timely manner as required under Section 1202 of Title 12 of the Social Security Act and shall not be paid, directly or indirectly, by the state from amounts in the state's unemployment compensation fund."

## **Chapter 137 Section 3 Laws 2007**

Section 3. Section 51-1-19 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 9, as amended) is amended to read:

"51-1-19. UNEMPLOYMENT COMPENSATION FUND.--

A. There is hereby established as a special fund, separate and apart from all public money, or funds of this state, an "unemployment compensation fund", which shall be administered by the department exclusively for the purposes of this section. The fund shall consist of:

(1) except for contributions deposited into the state unemployment trust fund pursuant to contribution schedule B in Paragraph (5) of Subsection I of Section 51-

1-11 NMSA 1978 and Section 51-1-19.1 NMSA 1978, all contributions collected and payments in lieu of contributions collected or due pursuant to the Unemployment Compensation Law;

(2) interest earned upon any money in the fund;

(3) any property or securities acquired through the use of money belonging to the fund;

(4) all earnings of such property or securities;

(5) all money received from the federal unemployment account in the unemployment trust fund in accordance with Title 12 of the Social Security Act, as amended;

(6) all money credited to this state's account in the unemployment trust fund pursuant to Section 903 of the Social Security Act, as amended;

(7) all money received or due from the federal government as reimbursements pursuant to Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970; and

(8) all money received for the fund from any other source. All money in the fund shall be mingled and undivided.

B. The state treasurer shall be the treasurer and custodian of the fund and shall administer such fund in accordance with the directions of the department and shall issue checks upon it in accordance with such regulations as the secretary may prescribe. The state treasurer shall maintain, within the fund, three separate accounts:

(1) a clearing account;

(2) an unemployment trust fund account; and

(3) a benefit account.

C. All money payable to the fund upon receipt thereof by the department shall be forwarded to the treasurer, who shall immediately deposit it in the clearing account. Refunds payable pursuant to Sections 51-1-36 and 51-1-42 NMSA 1978 shall be paid from the clearing account or the benefit account upon checks issued by the treasurer under the direction of the department. After clearance thereof, all money in the clearing account, except as herein otherwise provided, shall be immediately deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to Section 904 of the act of congress known as the Social Security Act, as amended (42 U.S.C. Section 1104), any provisions of law in this state relating to the deposits, administration, release or disbursements of money in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all money requisitioned from this state's account in the unemployment trust fund. Except as herein otherwise provided, money in the clearing and benefit accounts may be deposited by the treasurer, under the direction of the secretary, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Money in the clearing and benefit accounts shall not be commingled with other state funds but shall be maintained in separate accounts on the books of the depository.

D. All of the money not deposited in the treasury of the United States shall be subject to the general laws applicable to the deposit of public money in the state; and collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of this state.

E. The state treasurer shall be liable on the state treasurer's official bond for the faithful performance of duties in connection with the unemployment compensation fund provided for under this section. The liability on the official bond of the state treasurer shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to the liability of any separate bond existent on the effective date of this provision or that may be given in the future. All sums recovered for losses sustained by the fund shall be deposited therein.

F. All money in the clearing account established under this section is hereby appropriated for the purpose of making refunds pursuant to Sections 51-1-36 and 51-1-42 NMSA 1978, and all money in the clearing account not needed for the purpose of making the refunds shall be immediately paid to the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund, and the money in the unemployment trust fund is hereby appropriated for the purposes of this section.

G. Money shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and for the payment of refunds pursuant to Sections 51-1-36 and 51-1-42 NMSA 1978 in accordance with regulations prescribed by the secretary, except that money credited to this state's account pursuant to Section 903 of the Social Security Act, as amended, shall be used exclusively as provided in

Subsection H of this section. The secretary shall, from time to time, requisition from the unemployment trust fund such amounts not exceeding the amounts standing to this state's account therein, as the secretary deems necessary for the payment of such benefits and refunds for a reasonable future period. Upon receipt thereof, the treasurer shall deposit such money in the benefit account and shall issue checks for the payment of benefits solely from such benefit account. Expenditures of such money in the benefit account and refunds from the benefit account or the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. All money shall be withdrawn from the fund only upon a warrant issued by the department or its duly authorized agent upon the treasurer, and the treasurer upon receipt of such warrants shall issue a check against the fund in accordance with the warrant of the secretary. Any balance of money requisitioned from the unemployment trust fund that remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for, the payment of benefits and refunds during succeeding periods, or in the discretion of the secretary, shall be redeposited with the secretary of the treasury of the United States, to the credit of this state's account in the unemployment trust fund, as provided in Subsection C of this section. All money in the benefit account provided for hereinabove is hereby appropriated for the payment of benefits and refunds as provided herein.

H. Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to Section 903 of the Social Security Act may be requisitioned from this state's account or used only for:

(1) the payment of benefits pursuant to Subsection G of this section; and

(2) the payment of expenses incurred for the administration of the Unemployment Compensation Law and the federal Wagner-Peyser Act; provided that any money requisitioned and used for the payment of expenses incurred for the administration of the Unemployment Compensation Law and the federal Wagner-Peyser Act must be authorized by the enactment of a specific appropriation by the legislature that:

(a) specifies the purpose for which such money is appropriated and the amounts appropriated therefor;

(b) limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law, except for amounts distributed to the state of New Mexico on March 13, 2002 pursuant to Section 209 of the federal Temporary Extended Unemployment Compensation Act of 2002;

(c) limits the amount that may be obligated to an amount that does not exceed the amount by which the aggregate of the amounts credited to the account of this state pursuant to Section 903 of the Social Security Act exceeds the aggregate of

the amounts used by the state pursuant to this subsection and charged against the amounts transferred to the account of this state; and

(d) notwithstanding the provisions of Paragraph (1) of this subsection, money credited with respect to federal fiscal years 1999, 2000 and 2001 shall be used only for the administration of the Unemployment Compensation Law.

I. Amounts credited to this state's account in the unemployment trust fund under Section 903 of the Social Security Act that are obligated for administration shall be charged against transferred amounts at the exact time the obligation is entered into. The appropriation, obligation and expenditure or other disposition of money appropriated under Subsection H of this section shall be accounted for in accordance with standards established by the United States secretary of labor.

J. Money appropriated under Subsection H of this section for payment of expenses of administration shall be requisitioned as needed for payment of the obligations incurred under such appropriations and, upon requisition, shall be deposited in the unemployment compensation administration fund but, until expended, shall remain a part of the unemployment compensation fund for use only in accordance with the conditions specified in Subsection H of this section, notwithstanding any provision of Section 51-1-34 NMSA 1978. Any money so deposited that will not be expended shall be returned promptly to the account of the state in the unemployment trust fund.

K. The provisions of Subsections A through J of this section to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist and so long as the secretary of the treasury of the United States continues to maintain for this state a separate book account of all funds deposited therein by the state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all money, properties or securities therein belonging to the unemployment compensation fund of this state shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit and release such money, properties or securities in a manner approved by the secretary, in accordance with the provisions of this section; provided that such money shall be invested in the following readily marketable classes of securities; bonds or other interest-bearing obligations of the United States and of the state; and provided further that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the secretary."

## **Chapter 137 Section 4 Laws 2007**

Section 4. A new section of the Unemployment Compensation Law, Section 51-1-19.1 NMSA 1978, is enacted to read:

"51-1-19.1. STATE UNEMPLOYMENT TRUST FUND.--

A. The "state unemployment trust fund" is created in the state treasury. The fund shall consist of money deposited into the fund pursuant to Subsection B of this section. Money in the fund shall be invested by the state investment officer as land grant permanent funds are invested pursuant to Chapter 6, Article 8 NMSA 1978. Income from investment of the fund shall be credited to the fund. Except as provided in this section, money in the fund shall not revert or be transferred to any other fund and shall not be expended for any purpose.

B. Notwithstanding any requirement of the Unemployment Compensation Law to deposit all contributions into the unemployment compensation fund, contributions made pursuant to contribution schedule B of Paragraph (5) of Subsection I of Section 51-1-11 NMSA 1978 shall be deposited in the state unemployment trust fund.

C. Earnings from the investment of the fund are subject to appropriation by the legislature to the department solely for the purpose of administering the unemployment insurance and employment security programs.

D. Upon a determination by the secretary that the average high cost multiple of the unemployment compensation fund is less than two-tenths percent, the state treasurer shall transfer the amount necessary, as determined by the secretary, from the state unemployment trust fund to the unemployment compensation fund to maintain the average high cost multiple of the unemployment compensation fund at a value greater than two-tenths percent.

E. As used in this section:

(1) "average high cost multiple" means the calendar year reserve ratio divided by the average high cost rate;

(2) "average high cost rate" means the average of the three highest annual benefit cost rates in the last twenty years or in the last three recessionary periods, whichever is longer;

(3) "benefit cost rate" means the benefits paid, including the state's share of extended benefits but excluding reimbursable benefits, as a percent of total payrolls; and

(4) "calendar year reserve ratio" means the current balance of the unemployment compensation fund as a percentage of total payrolls."

## Chapter 137 Section 5 Laws 2007

Section 5. Section 51-1-42 NMSA 1978 (being Laws 2003, Chapter 47, Section 12, as amended) is amended to read:

"51-1-42. DEFINITIONS.--As used in the Unemployment Compensation Law:

A. "base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except that "base period" means for benefit years beginning on or after January 1, 2005 for an individual who does not have sufficient wages in the base period as defined to qualify for benefits pursuant to Section 51-1-5 NMSA 1978, the individual's base period shall be the last four completed calendar quarters immediately preceding the first day of the individual's benefit year if that period qualifies the individual for benefits pursuant to Section 51-1-5 NMSA 1978; provided that:

(1) wages that fall within the base period of claims established pursuant to this subsection are not available for reuse in qualifying for a subsequent benefit year; and

(2) in the case of a combined-wage claim pursuant to the arrangement approved by the federal secretary of labor, the base period is that base period applicable under the unemployment compensation law of the paying state;

B. "benefits" means the cash unemployment compensation payments payable to an eligible individual pursuant to Section 51-1-4 NMSA 1978 with respect to the individual's weeks of unemployment;

C. "contributions" means the money payments required by Section 51-1-9 NMSA 1978 to be made into the fund by an employer on account of having individuals performing services for the employer;

D. "employing unit" means any individual or type of organization, including any partnership, association, cooperative, trust, estate, joint-stock company, agricultural enterprise, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, household, fraternity or club, the legal representative of a deceased person or any state or local government entity to the extent required by law to be covered as an employer, which has in its employ one or more individuals performing services for it within this state. An individual performing services for an employing unit that maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of the Unemployment Compensation Law. An individual performing services for a contractor, subcontractor or agent that is performing work or services for an employing unit, as described in this subsection, which is within the scope of the employing unit's usual trade, occupation, profession or business, shall be deemed to be in the employ of the employing unit for all purposes of the Unemployment

Compensation Law unless the contractor, subcontractor or agent is itself an employer within the provisions of Subsection E of this section;

E. "employer" includes:

(1) an employing unit that:

(a) unless otherwise provided in this section, paid for service in employment as defined in Subsection F of this section wages of four hundred fifty dollars (\$450) or more in any calendar quarter in either the current or preceding calendar year or had in employment, as defined in Subsection F of this section, for some portion of a day in each of twenty different calendar weeks during either the current or the preceding calendar year, and irrespective of whether the same individual was in employment in each such day, at least one individual;

(b) for the purposes of Subparagraph (a) of this paragraph, if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one calendar week and the days beginning January 1, another such week; and

(c) for purposes of defining an "employer" under Subparagraph (a) of this paragraph, the wages or remuneration paid to individuals performing services in employment in agricultural labor or domestic services as provided in Paragraphs (6) and (7) of Subsection F of this section shall not be taken into account; except that any employing unit determined to be an employer of agricultural labor under Paragraph (6) of Subsection F of this section shall be an employer under Subparagraph (a) of this paragraph so long as the employing unit is paying wages or remuneration for services other than agricultural services;

(2) any individual or type of organization that acquired the trade or business or substantially all of the assets thereof, of an employing unit that at the time of the acquisition was an employer subject to the Unemployment Compensation Law; provided that where such an acquisition takes place, the secretary may postpone activating the separate account pursuant to Subsection A of Section 51-1-11 NMSA 1978 until such time as the successor employer has employment as defined in Subsection F of this section;

(3) an employing unit that acquired all or part of the organization, trade, business or assets of another employing unit and that, if treated as a single unit with the other employing unit or part thereof, would be an employer under Paragraph (1) of this subsection;

(4) an employing unit not an employer by reason of any other paragraph of this subsection:

(a) for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or

(b) that, as a condition for approval of the Unemployment Compensation Law for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to that act, to be an "employer" under the Unemployment Compensation Law;

(5) an employing unit that, having become an employer under Paragraph (1), (2), (3) or (4) of this subsection, has not, under Section 51-1-18 NMSA 1978, ceased to be an employer subject to the Unemployment Compensation Law;

(6) for the effective period of its election pursuant to Section 51-1-18 NMSA 1978, any other employing unit that has elected to become fully subject to the Unemployment Compensation Law;

(7) an employing unit for which any services performed in its employ are deemed to be performed in this state pursuant to an election under an arrangement entered into in accordance with Subsection A of Section 51-1-50 NMSA 1978; and

(8) an Indian tribe as defined in 26 USCA Section 3306(u) for which service in employment is performed;

F. "employment":

(1) means any service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied;

(2) means an individual's entire service, performed within or both within and without this state if:

(a) the service is primarily localized in this state with services performed outside the state being only incidental thereto; or

(b) the service is not localized in any state but some of the service is performed in this state and: 1) the base of operations or, if there is no base of operations, the place from which such service is directed or controlled, is in this state; or 2) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state;

(3) means services performed within this state but not covered under Paragraph (2) of this subsection if contributions or payments in lieu of contributions are

not required and paid with respect to such services under an unemployment compensation law of any other state, the federal government or Canada;

(4) means services covered by an election pursuant to Section 51-1-18 NMSA 1978 and services covered by an election duly approved by the secretary in accordance with an arrangement pursuant to Paragraph (1) of Subsection A of Section 51-1-50 NMSA 1978 shall be deemed to be employment during the effective period of the election;

(5) means services performed by an individual for an employer for wages or other remuneration unless and until it is established by a preponderance of evidence that:

(a) the individual has been and will continue to be free from control or direction over the performance of the services both under the individual's contract of service and in fact;

(b) the service is either outside the usual course of business for which the service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(c) the individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the contract of service;

(6) means service performed after December 31, 1977 by an individual in agricultural labor as defined in Subsection Q of this section if:

(a) the service is performed for an employing unit that: 1) paid remuneration in cash of twenty thousand dollars (\$20,000) or more to individuals in that employment during any calendar quarter in either the current or the preceding calendar year; or 2) employed in agricultural labor ten or more individuals for some portion of a day in each of twenty different calendar weeks in either the current or preceding calendar year, whether or not the weeks were consecutive, and regardless of whether the individuals were employed at the same time;

(b) the service is not performed before January 1, 1980 by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to Sections 214(c) and 101(15)(H) of the federal Immigration and Nationality Act; and

(c) for purposes of this paragraph, an individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for a farm operator or other person shall be treated as an employee of the crew leader: 1) if the crew leader meets the requirements of a crew leader as defined in Subsection L of this section; or 2) substantially all the members of the crew operate or maintain mechanized

agricultural equipment that is provided by the crew leader; and 3) the individuals performing the services are not, by written agreement or in fact, within the meaning of Paragraph (5) of this subsection, performing services in employment for the farm operator or other person;

(7) means service performed after December 31, 1977 by an individual in domestic service in a private home, local college club or local chapter of a college fraternity or sorority for a person or organization that paid cash remuneration of one thousand dollars (\$1,000) in any calendar quarter in the current or preceding calendar year to individuals performing such services;

(8) means service performed after December 31, 1971 by an individual in the employ of a religious, charitable, educational or other organization but only if the following conditions are met:

(a) the service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of Section 3306(c)(8) of that act; and

(b) the organization meets the requirements of "employer" as provided in Subparagraph (a) of Paragraph (1) of Subsection E of this section;

(9) means service of an individual who is a citizen of the United States, performed outside the United States, except in Canada, after December 31, 1971 in the employ of an American employer, other than service that is deemed "employment" under the provisions of Paragraph (2) of this subsection or the parallel provisions of another state's law, if:

(a) the employer's principal place of business in the United States is located in this state;

(b) the employer has no place of business in the United States, but: 1) the employer is an individual who is a resident of this state; 2) the employer is a corporation organized under the laws of this state; or 3) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(c) none of the criteria of Subparagraphs (a) and (b) of this paragraph are met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

"American employer" for the purposes of this paragraph means a person who is: 1) an individual who is a resident of the United States; 2) a partnership if two-thirds or more of the partners are residents of the United States; 3) a trust if all of the trustees are residents of the United States; or 4) a corporation organized under the laws of the United States or of any state. For the purposes of this paragraph, "United States"

includes the United States, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

(10) means, notwithstanding any other provisions of this subsection, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the Unemployment Compensation Law;

(11) means service performed in the employ of an Indian tribe if:

(a) the service is excluded from "employment" as defined in 26 USCA Section 3306(c) solely by reason of 26 USCA Section 3306(c)(7); and

(b) the service is not otherwise excluded from employment pursuant to the Unemployment Compensation Law;

(12) does not include:

(a) service performed in the employ of: 1) a church or convention or association of churches; or 2) an organization that is operated primarily for religious purposes and that is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(b) service performed by a duly ordained, commissioned or licensed minister of a church in the exercise of such ministry or by a member of a religious order in the exercise of duties required by such order;

(c) service performed by an individual in the employ of the individual's son, daughter or spouse, and service performed by a child under the age of majority in the employ of the child's father or mother;

(d) service performed in the employ of the United States government or an instrumentality of the United States immune under the constitution of the United States from the contributions imposed by the Unemployment Compensation Law except that to the extent that the congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, all of the provisions of the Unemployment Compensation Law shall be applicable to such instrumentalities, and to service performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided that if this state shall not be certified for any year by the secretary of labor of the United States under Section 3304 of the federal Internal Revenue Code of 1986, 26 U.S.C. Section 3304, the payments required of such instrumentalities with respect to such year shall be refunded by the department from the

fund in the same manner and within the same period as is provided in Subsection D of Section

51-1-36 NMSA 1978 with respect to contributions erroneously collected;

(e) service performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving that rehabilitation or remunerative work;

(f) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

(g) service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative;

(h) service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the person is performed for remuneration solely by way of commission;

(i) service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(j) service covered by an election duly approved by the agency charged with the administration of any other state or federal unemployment compensation law, in accordance with an arrangement pursuant to Paragraph (1) of Subsection A of Section 51-1-50 NMSA 1978 during the effective period of the election;

(k) service performed, as part of an unemployment work-relief or work-training program assisted or financed in whole or part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving the work relief or work training;

(l) service performed by an individual who is enrolled at a nonprofit or public educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution that combines academic instruction with work experience, if the service is an integral part of such program and the institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(m) service performed in the employ of a hospital, if the service is performed by a patient of the hospital, or services performed by an inmate of a custodial or penal institution for any employer;

(n) service performed by real estate salespersons for others when the services are performed for remuneration solely by way of commission;

(o) service performed in the employ of a school, college or university if the service is performed by a student who is enrolled and is regularly attending classes at the school, college or university;

(p) service performed by an individual for a fixed or contract fee officiating at a sporting event that is conducted by or under the auspices of a nonprofit or governmental entity if that person is not otherwise an employee of the entity conducting the sporting event;

(q) service performed for a private, for-profit person or entity by an individual as a product demonstrator or product merchandiser if the service is performed pursuant to a written contract between that individual and a person or entity whose principal business is obtaining the services of product demonstrators and product merchandisers for third parties, for demonstration and merchandising purposes and the individual: 1) is compensated for each job or the compensation is based on factors related to the work performed; 2) provides the equipment used to perform the service, unless special equipment is required and provided by the manufacturer through an agency; 3) is responsible for completion of a specific job and for any failure to complete the job; 4) pays all expenses, and the opportunity for profit or loss rests solely with the individual; and 5) is responsible for operating costs, fuel, repairs and motor vehicle insurance. For the purpose of this subparagraph, "product demonstrator" means an individual who, on a temporary, part-time basis, demonstrates or gives away samples of a food or other product as part of an advertising or sales promotion for the product and who is not otherwise employed directly by the manufacturer, distributor or retailer, and "product merchandiser" means an individual who, on a temporary, part-time basis builds or resets a product display and who is not otherwise directly employed by the manufacturer, distributor or retailer; or

(r) service performed for a private, for-profit person or entity by an individual as a landman if substantially all remuneration paid in cash or otherwise for the performance of the services is directly related to the completion by the individual of the specific tasks contracted for rather than to the number of hours worked by the individual. For the purposes of this subparagraph, "landman" means a land professional who has been engaged primarily in: 1) negotiating for the acquisition or divestiture of mineral rights; 2) negotiating business agreements that provide for the exploration for or development of minerals; 3) determining ownership of minerals through the research of public and private records; and 4) reviewing the status of title, curing title defects and otherwise reducing title risk associated with ownership of minerals; managing rights or

obligations derived from ownership of interests and minerals; or utilizing or pooling of interest in minerals; and

(13) for the purposes of this subsection, if the services performed during one-half or more of any pay period by an individual for the person employing the individual constitute employment, all the services of the individual for the period shall be deemed to be employment, but, if the services performed during more than one-half of any such pay period by an individual for the person employing the individual do not constitute employment, then none of the services of the individual for the period shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period, of not more than thirty-one consecutive days, for which a payment of remuneration is ordinarily made to the individual by the person employing the individual. This paragraph shall not be applicable with respect to services performed in a pay period by an individual for the person employing the individual where any of such service is excepted by Subparagraph (f) of Paragraph (12) of this subsection;

G. "employment office" means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices;

H. "fund" means the unemployment compensation fund established by the Unemployment Compensation Law to which all contributions and payments in lieu of contributions required under the Unemployment Compensation Law and from which all benefits provided under the Unemployment Compensation Law shall be paid; provided that, for the purposes of paying contributions, "fund" may also include the state unemployment trust fund and contributions paid to that fund pursuant to contribution schedule B in Paragraph (5) of Subsection I of Section 51-1-11 NMSA 1978 and Section 51-1-19.1 NMSA 1978;

I. "unemployment" means, with respect to an individual, any week during which the individual performs no services and with respect to which no wages are payable to the individual and during which the individual is not engaged in self-employment or receives an award of back pay for loss of employment. The secretary shall prescribe by rule what constitutes part-time and intermittent employment, partial employment and the conditions under which individuals engaged in such employment are eligible for partial unemployment benefits, but no individual who is otherwise eligible shall be deemed ineligible for benefits solely for the reason that the individual seeks, applies for or accepts only part-time work, instead of full-time work, if the part-time work is for at least twenty hours per week;

J. "state", when used in reference to any state other than New Mexico, includes, in addition to the states of the United States, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

K. "unemployment compensation administration fund" means the fund established by Subsection A of Section 51-1-34 NMSA 1978 from which administrative

expenses under the Unemployment Compensation Law shall be paid. "Employment security department fund" means the fund established by Subsection B of Section 51-1-

34 NMSA 1978 from which certain administrative expenses under the Unemployment Compensation Law shall be paid;

L. "crew leader" means a person who:

(1) holds a valid certificate of registration as a crew leader or farm labor contractor under the federal Migrant and Seasonal Agricultural Worker Protection Act;

(2) furnishes individuals to perform services in agricultural labor for any other person;

(3) pays, either on the crew leader's own behalf or on behalf of such other person, the individuals so furnished by the crew leader for service in agricultural labor; and

(4) has not entered into a written agreement with the other person for whom the crew leader furnishes individuals in agricultural labor that the individuals will be the employees of the other person;

M. "week" means such period of seven consecutive days, as the secretary may by rule prescribe. The secretary may by rule prescribe that a week shall be deemed to be "in", "within" or "during" the benefit year that includes the greater part of such week;

N. "calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31;

O. "insured work" means services performed for employers who are covered under the Unemployment Compensation Law;

P. "benefit year" with respect to an individual means the one-year period beginning with the first day of the first week of unemployment with respect to which the individual first files a claim for benefits in accordance with Subsection A of Section 51-

1-8 NMSA 1978 and thereafter the one-year period beginning with the first day of the first week of unemployment with respect to which the individual next files such a claim for benefits after the termination of the individual's last preceding benefit year; provided that at the time of filing such a claim the individual has been paid the wage required under Paragraph (5) of Subsection A of Section 51-1-5 NMSA 1978;

Q. "agricultural labor" includes all services performed:

(1) on a farm, in the employ of a person, in connection with cultivating the soil or in connection with raising or harvesting an agricultural or horticultural commodity,

including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife;

(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation or maintenance of the farm and its tools and equipment, if the major part of the service is performed on a farm;

(3) in connection with the operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for supplying and storing water for farming purposes when such ditches, canals, reservoirs or waterways are owned and operated by the farmers using the water stored or carried therein; and

(4) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivery to storage or to market or to a carrier for transportation to market any agricultural or horticultural commodity but only if the service is performed as an incident to ordinary farming operations. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, greenhouses, ranges and orchards;

R. "payments in lieu of contributions" means the money payments made into the fund by an employer pursuant to the provisions of Subsection B of Section 51-1-13 NMSA 1978 or Subsection E of Section 51-1-59 NMSA 1978;

S. "department" means the labor department; and

T. "wages" means all remuneration for services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be established and determined in accordance with rules prescribed by the secretary; provided that the term "wages" shall not include:

(1) subsequent to December 31, 1977, that part of the remuneration in excess of the base wage as determined by the secretary for each calendar year. The base wage upon which contribution shall be paid during any calendar year shall be sixty percent of the state's average annual earnings computed by the division by dividing total wages reported to the division by contributing employers for the second preceding calendar year before the calendar year the computed base wage becomes effective by the average annual employment reported by contributing employers for the same period rounded to the next higher multiple of one hundred dollars (\$100); provided that the base wage so computed for any calendar year shall not be less than seven thousand

dollars (\$7,000). Wages paid by an employer to an individual in the employer's employ during any calendar year in excess of the base wage in effect for that calendar year shall be reported to the department but shall be exempt from the payment of contributions unless such wages paid in excess of the base wage become subject to tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund;

(2) the amount of any payment with respect to services performed after June 30, 1941 to or on behalf of an individual in the employ of an employing unit under a plan or system established by the employing unit that makes provision for individuals in its employ generally or for a class or classes of individuals, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any payment, on account of:

(a) retirement if the payments are made by an employer to or on behalf of an employee under a simplified employee pension plan that provides for payments by an employer in addition to the salary or other remuneration normally payable to the employee or class of employees and does not include any payments that represent deferred compensation or other reduction of an employee's normal taxable wages or remuneration or any payments made to a third party on behalf of an employee as part of an agreement of deferred remuneration;

(b) sickness or accident disability if the payments are received under a workers' compensation or occupational disease disablement law;

(c) medical and hospitalization expenses in connection with sickness or accident disability; or

(d) death; provided the individual in its employ has not the option to receive, instead of provision for the death benefit, any part of such payment, or, if such death benefit is insured, any part of the premiums or contributions to premiums paid by the individual's employing unit and has not the right under the provisions of the plan or system or policy of insurance providing for the death benefit to assign the benefit, or to receive a cash consideration in lieu of the benefit either upon the individual's withdrawal from the plan or system providing for the benefit or upon termination of the plan or system or policy of insurance or of the individual's service with the employing unit;

(3) remuneration for agricultural labor paid in any medium other than cash;

(4) a payment made to, or on behalf of, an employee or an employee's beneficiary under a cafeteria plan within the meaning of Section 125 of the federal Internal Revenue Code of 1986;

(5) a payment made, or benefit furnished to or for the benefit of an employee if at the time of the payment or such furnishing it is reasonable to believe that

the employee will be able to exclude the payment or benefit from income under Section 129 of the federal Internal Revenue Code of 1986;

(6) a payment made by an employer to a survivor or the estate of a former employee after the calendar year in which the employee died;

(7) a payment made to, or on behalf of, an employee or the employee's beneficiary under an arrangement to which Section 408(p) of the federal Internal Revenue Code of 1986 applies, other than any elective contributions under Paragraph (2)(A)(i) of that section;

(8) a payment made to or for the benefit of an employee if at the time of the payment it is reasonable to believe that the employee will be able to exclude the payment from income under Section 106 of the federal Internal Revenue Code of 1986; or

(9) the value of any meals or lodging furnished by or on behalf of the employer if at the time the benefit is provided it is reasonable to believe that the employee will be able to exclude such items from income under Section 119 of the federal Internal Revenue Code of 1986."

## **Chapter 137 Section 6 Laws 2007**

Section 6. REPEAL.--Laws 2005, Chapter 3, Sections 6 through 11 and 13 are repealed.

## **Chapter 137 Section 7 Laws 2007**

Section 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 247, as amended

Approved April 2, 2007

# **LAWS 2007, CHAPTER 138**

AN ACT

RELATING TO TAXATION; INCREASING THE PERCENTAGE OF LIQUOR EXCISE TAX DISTRIBUTED TO THE LOCAL DWI GRANT FUND.

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

## **Chapter 138 Section 1 Laws 2007**

Section 1. Section 7-1-6.40 NMSA 1978 (being Laws 1997, Chapter 182, Section 1, as amended) is amended to read:

"7-1-6.40. DISTRIBUTION--LOCAL DWI GRANT FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the local DWI grant fund in an amount equal to forty-one and fifty hundredths percent of the net receipts attributable to the liquor excise tax."

## **Chapter 138 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 266, as amended

with certificate of correction

Approved April 2, 2007

# **LAWS 2007, CHAPTER 139**

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; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

## **Chapter 139 Section 1 Laws 2007**

Section 1. AUTHORIZATION OF PROJECTS.--Pursuant to the provisions of Section 72-4A-9 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans or grants from the water project fund to the following qualified entities for the following qualifying water projects on terms and conditions established by the water trust board and the New Mexico finance authority:

1. to the city of Rio Rancho in Sandoval county for a water conveyance project;
2. to Bernalillo county for a water conveyance project;

3. to the city of Alamogordo in Otero county for a water project;
4. to the city of Alamogordo in Otero county for a water conservation and reuse project;
5. to Anthony water and sanitation district in Dona Ana county for a water project;
6. to Blanco mutual domestic water consumers and mutual sewage works association in San Juan county for a water project;
7. to the city of Bloomfield in San Juan county for a water project;
8. to Buckman direct diversion board in Santa Fe county for a water project;
9. to the city of Carlsbad in Eddy county for a water project;
10. to the Carnuel mutual domestic water and wastewater consumers association in Bernalillo county for a water project;
11. to the city of Deming in Luna county for a water project;
12. to Claunch-Pinto soil and water conservation district in Torrance county for a watershed restoration and management project;
13. to the village of Columbus in Luna county for a water project;
14. to Cuatro Villas mutual domestic water users association in Santa Fe county for a regional water project;
15. to Dona Ana mutual domestic water consumers association in Dona Ana county for a water conservation and reuse project;
16. to Dona Ana mutual domestic water consumers association in Dona Ana county for a water project;
17. to El Prado water and sanitation district in Taos county for a water project;
18. to El Rito water and wastewater association in Rio Arriba county for a water project;
19. to Elephant Butte irrigation district in Sierra county for a water conservation and reuse project;
20. to the city of Elephant Butte in Sierra county for a water conservation and reuse project;

21. to the city of Clovis as fiscal agent for the eastern New Mexico rural water authority in Curry county for a regional water project;

22. to Guadalupe county for a water project;

23. to Los Alamos county for a water conservation and reuse project;

24. to the city of Lovington in Lea county for a water conservation and reuse project;

25. to the Navajo Nation division of natural resources department of water resources water management branch for a regional water project in Rio Arriba, Sandoval, McKinley, San Juan and Cibola counties;

26. to the surface water quality bureau of the water and waste management division of the department of environment as fiscal agent for the Valles Caldera trust in Sandoval county for a watershed restoration and management project;

27. to the office of natural resources trustee in Bernalillo county for a watershed restoration and management project;

28. to the city of Santa Fe in Santa Fe county for a water conservation and reuse project;

29. to the southside water users association in San Juan county for a water conservation and reuse project;

30. to the town of Taos in Taos county for a water conservation and reuse project;

31. to the city of Tucumcari in Quay county for a water conservation and reuse project; and

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

## **Chapter 139 Section 2 Laws 2007**

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 268, as amended

with emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 140**

AN ACT

RELATING TO COURTS; CREATING ADDITIONAL JUDGESHIPS IN THE SECOND, FOURTH AND SIXTH JUDICIAL DISTRICTS AND IN THE SAN JUAN MAGISTRATE DISTRICT; MAKING APPROPRIATIONS.

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

### **Chapter 140 Section 1 Laws 2007**

Section 1. Section 34-6-5 NMSA 1978 (being Laws 1968, Chapter 69, Section 8, as amended) is amended to read:

"34-6-5. JUDGES--SECOND JUDICIAL DISTRICT.--There shall be twenty-six district judges in the second judicial district."

### **Chapter 140 Section 2 Laws 2007**

Section 2. Section 34-6-7 NMSA 1978 (being Laws 1968, Chapter 69, Section 10, as amended) is amended to read:

"34-6-7. JUDGES--FOURTH JUDICIAL DISTRICT.--There shall be three district judges in the fourth judicial district."

### **Chapter 140 Section 3 Laws 2007**

Section 3. Section 34-6-9 NMSA 1978 (being Laws 1968, Chapter 69, Section 12, as amended) is amended to read:

"34-6-9. JUDGES--SIXTH JUDICIAL DISTRICT.--There shall be four district judges in the sixth judicial district. The judge of division 1 shall reside and maintain the judge's principal office in Grant county. The judge of division 4 shall reside and maintain the judge's principal office in Luna county."

### **Chapter 140 Section 4 Laws 2007**

Section 4. Section 35-1-27 NMSA 1978 (being Laws 1968, Chapter 62, Section 29, as amended) is amended to read:

"35-1-27. MAGISTRATE COURT--SAN JUAN DISTRICT ELECTION DIVISION PRECINCTS.--

A. There shall be six magistrate divisions in San Juan magistrate district, each division having its own magistrate. Divisions 1, 4 and 6 shall operate as a single court in Aztec and divisions 2, 3 and 5 shall operate as a single court in Farmington.

B. Magistrate judges shall not be elected at large from the district, but shall be elected by the voters of the division for which the magistrate sits. Magistrate judges may reside anywhere within the magistrate district and shall have district-wide jurisdiction. The composition of the divisions for elections purposes is:

(1) division 1 is composed of San Juan county precincts 41, 46, 47, 60 through 67, 69 and 72;

(2) division 2 is composed of San Juan county precincts 1 through 4, 8 through 14, 19 and 82;

(3) division 3 is composed of San Juan county precincts 20, 22 through 25, 27, 28, 30, 40, 42 through 44 and 49;

(4) division 4 is composed of San Juan county precincts 5 through 7, 15, 16, 53, 57, 71, 79, 81 and 83 through 86;

(5) division 5 is composed of San Juan county precincts 18, 21, 26, 29, 31, 45, 51, 52 and 54 and

(6) division 6 is composed of San Juan county precincts 55, 56, 58, 59, 68, 70 and 73 through 76."

## **Chapter 140 Section 5 Laws 2007**

Section 5. TEMPORARY PROVISION--DISTRICT JUDGES--APPOINTMENTS.-  
-The additional district judgeships provided for in this act shall be filled by appointment by the governor pursuant to the provisions of Article 6 of the constitution of New Mexico.

## **Chapter 140 Section 6 Laws 2007**

Section 6. TEMPORARY PROVISION--MAGISTRATE COURT --  
APPOINTMENT AND ELECTION.--The office of magistrate in San Juan division 6 shall be filled by appointment by the governor to begin serving on July 1, 2007. The appointed magistrate shall serve until succeeded by a magistrate elected at the general election in 2008. The first full term of office of the elected magistrate shall begin on January 1, 2009.

## **Chapter 140 Section 7 Laws 2007**

Section 7. APPROPRIATIONS.--

A. The following amounts are appropriated from the general fund to the following agencies for expenditure in fiscal year 2008 for the following purposes:

(1) six hundred sixty-two thousand four hundred seventy-eight dollars (\$662,478) to the second judicial district court for salaries and benefits and furniture, supplies and equipment for two additional district judges and support staff;

(2) one hundred eighty-one thousand seven hundred dollars (\$181,700) to the fourth judicial district court for salaries and benefits and furniture, supplies and equipment for one additional district judge and support staff;

(3) three hundred thirty-one thousand two hundred thirty-nine dollars (\$331,239) to the sixth judicial district court for salaries and benefits and furniture, supplies and equipment for one additional district judge and support staff; and

(4) one hundred twelve thousand six hundred fifty-four dollars (\$112,654) to the administrative office of the courts for salary and benefits and furniture, supplies and equipment for one additional magistrate judge in the San Juan magistrate district.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 140 Section 8 Laws 2007**

### Section 8. APPROPRIATIONS.--

A. The following amounts are appropriated from the general fund to the following entities for expenditure in fiscal year 2008 for the following purposes:

(1) two hundred eighty-two thousand dollars (\$282,000) to the second judicial district attorney to provide salaries and benefits, furniture, supplies and equipment for additional staff due to an increased district court workload;

(2) one hundred seventy-five thousand five hundred dollars (\$175,500) to the public defender department to provide salaries and benefits, furniture, supplies and equipment for additional staff due to an increased workload in the second judicial district and for contractual services in that district;

(3) one hundred forty-one thousand one hundred dollars (\$141,100) to the fourth judicial district attorney to provide salaries and benefits, furniture, supplies and equipment for additional staff due to an increased district court workload;

(4) fifty thousand dollars (\$50,000) to the public defender department for contractual services due to an increased workload in the fourth judicial district;

(5) one hundred forty-one thousand one hundred dollars (\$141,100) to the sixth judicial district attorney to provide salaries and benefits, furniture, supplies and equipment for additional staff due to an increased district court workload;

(6) seventy-five thousand dollars (\$75,000) to the public defender department for contractual services due to an increased workload in the sixth judicial district;

(7) one hundred thousand dollars (\$100,000) to the eleventh judicial district attorney to provide salaries and benefits, furniture, supplies and equipment for additional staff due to an increased workload in the San Juan county magistrate court; and

(8) one hundred eight thousand dollars (\$108,000) to the public defender department to provide salaries and benefits, furniture, supplies and equipment for additional staff due to an increased workload in the San Juan county magistrate court and for contractual services to address the increased workload in that court.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

## **Chapter 140 Section 9 Laws 2007**

Section 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Appropriations and Finance Committee

Substitute for House Bill 291

Approved March 30, 2007

## **LAWS 2007, CHAPTER 141**

AN ACT

RELATING TO PROCUREMENT; AMENDING THE PROCUREMENT CODE TO PROVIDE FOR CONSTRUCTION MANAGER AT RISK CONTRACTS IN THE CONSTRUCTION OF EDUCATIONAL FACILITIES; ENACTING THE EDUCATIONAL FACILITY CONSTRUCTION MANAGER AT RISK ACT; PROVIDING PROCEDURES FOR SELECTING A CONSTRUCTION MANAGER AT RISK; DECLARING AN EMERGENCY.

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

## **Chapter 141 Section 1 Laws 2007**

Section 1. Section 13-1-102 NMSA 1978 (being Laws 1984, Chapter 65, Section 75) is amended to read:

"13-1-102. COMPETITIVE SEALED BIDS REQUIRED.--All procurement shall be achieved by competitive sealed bid pursuant to Sections 13-1-103 through 13-1-110 NMSA 1978, except procurement achieved pursuant to the following sections of the Procurement Code:

A. Sections 13-1-111 through 13-1-122 NMSA 1978, competitive sealed proposals;

B. Section 13-1-125 NMSA 1978, small purchases;

C. Section 13-1-126 NMSA 1978, sole source procurement;

D. Section 13-1-127 NMSA 1978, emergency procurements;

E. Section 13-1-129 NMSA 1978, existing contracts;

F. Section 13-1-130 NMSA 1978, purchases from antipoverty program businesses; and

G. the Educational Facility Construction Manager At Risk Act."

## **Chapter 141 Section 2 Laws 2007**

Section 2. Section 13-1-111 NMSA 1978 (being Laws 1984, Chapter 65, Section 84, as amended) is amended to read:

"13-1-111. COMPETITIVE SEALED PROPOSALS--CONDITIONS FOR USE.--

A. Except as provided in Subsection G of Section 13-1-119.1 NMSA 1978, when a state agency or a local public body is procuring professional services or a design and build project delivery system, or when the state purchasing agent, a central purchasing office or a designee of either officer makes a written determination that the use of competitive sealed bidding for items of tangible personal property or services is either not practicable or not advantageous to the state agency or a local public body, a procurement shall be effected by competitive sealed proposals.

B. Competitive sealed proposals may also be used for contracts for construction and facility maintenance, service and repairs.

C. Competitive sealed proposals may also be used for construction manager at risk contracts if a three-step selection procedure is used pursuant to the Educational Facility Construction Manager At Risk Act.

D. Competitive qualifications-based proposals shall be used for procurement of professional services of architects, engineers, landscape architects, construction managers and surveyors who submit proposals pursuant to Sections 13-1-120 through 13-1-124 NMSA 1978.

E. Competitive sealed proposals shall also be used for contracts for the design and installation of measures the primary purpose of which is to conserve natural resources, including guaranteed utility savings contracts entered into pursuant to the Public Facility Energy Efficiency and Water Conservation Act."

### **Chapter 141 Section 3 Laws 2007**

Section 3. A new section of the Procurement Code, Section 13-1-124.1 NMSA 1978, is enacted to read:

"13-1-124.1. SHORT TITLE.--Sections 13-1-124.1 through 13-1-124.5 NMSA 1978 may be cited as the "Educational Facility Construction Manager At Risk Act"."

### **Chapter 141 Section 4 Laws 2007**

Section 4. A new section of the Procurement Code, Section 13-1-124.2 NMSA 1978, is enacted to read:

"13-1-124.2. APPLICABILITY.--The provisions of the Educational Facility Construction Manager At Risk Act apply to contracts for the construction of educational facilities if the governing body chooses, pursuant to the provisions of that act, to use the services of a construction manager at risk."

### **Chapter 141 Section 5 Laws 2007**

Section 5. A new section of the Procurement Code, Section 13-1-124.3 NMSA 1978, is enacted to read:

"13-1-124.3. DEFINITIONS.--As used in the Educational Facility Construction Manager At Risk Act:

A. "construction manager at risk" means a person who, pursuant to a contract with a governing body, provides the preconstruction services and construction management required in a construction manager at risk delivery method;

B. "construction manager at risk delivery method" means a construction method for an educational facility wherein a construction manager at risk provides a range of

preconstruction services and construction management, including cost estimation and consultation regarding the design of the building project, preparation and coordination of bid packages, scheduling, cost control, value engineering and, while acting as the general contractor during construction, detailing the trade contractor scope of work, holding the trade contracts and other subcontracts, prequalifying and evaluating trade contractors and subcontractors and providing management and construction services, all at a guaranteed maximum price for which the construction manager at risk is financially responsible;

C. "educational facility" means a public school, including a locally chartered or state-

chartered charter school or a facility of a state educational institution listed in Section 6-17-

1.1 NMSA 1978;

D. "governing body" means:

(1) the public school facilities authority if the authority is the using agency that requires the construction of an educational facility;

(2) a local school board if the board is the using agency that requires the construction of an educational facility;

(3) the governing body of a charter school if the governing body is the using agency that requires the construction of an educational facility; or

(4) the governing body of a state educational institution if the governing body is the using agency that requires the construction of an educational facility; and

E. "guaranteed maximum price" means the maximum amount to be paid by the governing body for the construction of the educational facility, including the cost of the work, the general conditions and the fees charged by the construction manager at risk."

## **Chapter 141 Section 6 Laws 2007**

Section 6. A new section of the Procurement Code, Section 13-1-124.4 NMSA 1978, is enacted to read:

"13-1-124.4. CONSTRUCTION MANAGER AT RISK DELIVERY METHOD AUTHORIZED--MULTIPHASE SELECTION PROCEDURE.--

A. A construction manager at risk delivery method may be used when a governing body determines that it is in its interest to use that method on a specific

educational facility construction project, provided that the construction manager at risk shall be selected pursuant to the provisions of this section.

B. The governing body shall form a selection committee of at least three members with at least one member being an architect or engineer. The selection committee shall develop an evaluation process, including a multiphase procedure consisting of two or three steps. A two-step procedure may be used when the total amount of money available for the project is less than five hundred thousand dollars (\$500,000) and shall include a request for qualifications and an interview. A three-step procedure shall consist of a request for qualifications, a request for proposals and an interview.

C. A request for qualifications shall be published in accordance with Section 13-1-104 NMSA 1978 and shall include at a minimum the following:

(1) a statement of the minimum qualifications for the construction manager at risk, including the requirements for:

(a) a contractor's license for the type of work to be performed, issued pursuant to the Construction Industries Licensing Act;

(b) registration pursuant to Section 13-4-13.1 NMSA 1978; and

(c) a minimum bond capacity;

(2) a statement of the scope of work to be performed, including:

(a) the location of the project and the total amount of money available for the project;

(b) a proposed schedule, including a deadline for submission of the statements of qualification;

(c) specific project requirements and deliverables;

(d) the composition of the selection committee;

(e) a description of the process the selection committee shall use to evaluate qualifications;

(f) a proposed contract; and

(g) a detailed statement of the relationships and obligations of all parties, including the construction manager at risk, agents of the governing body, such as an architect or engineer, and the governing body;

(3) a verification of the maximum allowable construction cost; and

(4) a request for a proposal bond as required by Section 13-1-146 NMSA 1978.

D. The selection committee shall evaluate the statements of qualifications submitted and determine the offerors that qualify for the construction manager at risk. If the selection committee has chosen a three-step procedure, the committee shall issue a request for proposals to the offerors that qualify.

E. If the selection committee has chosen a two-step procedure, the committee shall rank the persons that qualify based upon the statements of qualification and interview up to three of the highest-ranked offerors.

F. In a three-step procedure, the selection committee shall issue a request for proposals and evaluate the proposals pursuant to Sections 13-1-112 through 13-1-117 NMSA 1978 except that:

(1) the request for proposals shall be sent only to those determined to be qualified pursuant to Subsection D of this section;

(2) the selection committee shall evaluate the proposals and conduct interviews with up to three of the highest-ranked offerors instead of negotiating with responsible offerors found to be reasonably likely to be selected; and

(3) pursuant to Subsection G of this section, the contract award may be made after the interviews.

G. After conducting interviews with the highest-ranked offerors and after considering the factors listed in Subsection H of this section, the selection committee shall recommend to the governing body the offeror that will be most advantageous to the governing body. Should the governing body or designee be unable to negotiate a satisfactory contract with the offeror considered to be the most qualified at a price determined to be fair and reasonable, negotiations with that offeror shall be formally terminated. The governing body or designee shall then undertake negotiations with the second most qualified offeror. Failing accord with the second most qualified offeror, the governing body or designee shall formally terminate negotiations with the offeror. The governing body or designee shall then undertake negotiations with the third most qualified offeror. Should the governing body or designee be unable to negotiate a contract with any of the offerors selected by the committee, additional offerors shall be ranked in order of their qualifications and the governing body or designee shall continue negotiations in accordance with this section until a contract is signed with a qualified offeror or the procurement process is terminated and a new request for proposals is initiated.

H. In evaluating and ranking statements of qualifications, proposals and results of interviews, and in the final recommendation of a construction manager at risk, the selection committee shall consider:

(1) the offeror`s experience with construction of similar types of projects;

(2) the qualifications and experience of the offeror's personnel and consultants and the role of each in the project;

(3) the plan for management actions to be undertaken on the project, including services to be rendered in connection with safety and the safety plan for the project;

(4) the offeror`s experience with the construction manager at risk method;  
and

(5) all other selection criteria, as stated in the request for qualifications and the request for proposals.

I. Nothing in this section precludes the selection committee from recommending the termination of the selection procedure pursuant to Section 13-1-131 NMSA 1978 and repeating the selection process pursuant to this section. Any material received by the selection committee in response to a solicitation that is terminated shall not be disclosed so as to be available to competing offerors.

J. After a contract is awarded, the selection committee shall make the names of all offerors and the names of all offerors selected for interview available for public inspection along with the selection committee's final ranking and evaluation scores. Offerors who were interviewed but not selected for contract award shall be notified in writing within fifteen days of the award."

## **Chapter 141 Section 7 Laws 2007**

Section 7. A new section of the Procurement Code, Section 13-1-124.5 NMSA 1978, is enacted to read:

"13-1-124.5. RESPONSIBILITIES OF CONSTRUCTION MANAGER AT RISK FOLLOWING AWARD OF PROJECT.--

A. The contract with the construction manager at risk shall specify:

(1) the guaranteed maximum price; and

(2) the percentage of the guaranteed price that the construction manager at risk will perform with its own work force.

B. The construction manager at risk, in cooperation with the governing body, shall seek to develop subcontractor interest in the project and shall furnish to the governing body and any architect or engineer representing the governing body a list of subcontractors who state in writing that they are a responsible bidder or a responsible offeror, including suppliers who are to furnish materials or equipment fabricated to a special design and from whom proposals or bids will be requested for each principal portion of the project. The governing body and its architect or engineer shall promptly reply in writing to the construction manager at risk if the governing body, architect or engineer knows of any objection to a listed subcontractor or supplier, provided that the receipt of the list shall not require the governing body, architect or engineer to investigate the qualifications of proposed subcontractors or suppliers, nor shall it waive the right of the governing body, architect or engineer later to object to or reject any proposed subcontractor or supplier.

C. The construction manager at risk shall:

(1) conduct pre-bid or pre-proposal meetings;

(2) advise the governing body about bidding or proposals;

(3) enter into contracts; and

(4) assist the governing body in evaluating submissions by responsible bidders and offerors."

## **Chapter 141 Section 8 Laws 2007**

Section 8. A new section of Chapter 13, Article 4 NMSA 1978 is enacted to read:

"DEFINITIONS--CONSTRUCTION CONTRACT--CONTRACTOR.--As used in Chapter 13, Article 4 NMSA 1978:

A. "contract" or "construction contract" includes a construction manager at risk contract entered into pursuant to the Educational Facility Construction Manager At Risk Act; and

B. "contractor" includes a construction manager at risk selected pursuant to the Educational Facility Construction Manager At Risk Act."

## **Chapter 141 Section 9 Laws 2007**

Section 9. Section 13-1-146 NMSA 1978 (being Laws 1984, Chapter 65, Section 119) is amended to read:

"13-1-146. REQUIREMENT FOR BID SECURITY.--Bid security shall be required of bidders or offerors for construction contracts when the price is estimated by the

procurement officer to exceed twenty-five thousand dollars (\$25,000). Bid security in an amount equal to at least five percent of the amount of the bid shall be a bond provided by a surety company authorized to do business in this state, or the equivalent in cash, or otherwise supplied in a form satisfactory to the state agency or a local public body."

## **Chapter 141 Section 10 Laws 2007**

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

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House Bill 303, as amended

with emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 142**

AN ACT

RELATING TO WILDLIFE; AMENDING A SECTION OF THE NMSA 1978 TO CHANGE THE FEE FOR AN ADDITIONAL DEER LICENSE.

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

## **Chapter 142 Section 1 Laws 2007**

Section 1. Section 17-3-15 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 6, as amended) is amended to read:

"17-3-15. ADDITIONAL DEER LICENSE.--

A. It is a misdemeanor for any person to procure or use more than one license to hunt big game in one year, except as provided in this section, or to use any tag after it has been used once.

B. For the purpose of effectuating better game management and control, the state game commission may by regulation authorize the sale of not more than one additional deer license each year to any person holding a license that entitled the person to hunt deer during that year. The fee for an additional deer license shall be the resident or nonresident deer license fee pursuant to Section 17-3-13 NMSA 1978.

C. It is a misdemeanor for any person to take or attempt to take a deer with an additional deer license unless the person has the additional deer license and the other license that entitled the person to hunt deer for that year in the person's possession. Possession of an additional deer license without the other license that entitled the person to hunt deer for that year is prima facie evidence of violation of this section."

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House Bill 305

Approved April 2, 2007

## **LAWS 2007, CHAPTER 143**

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING A SECTION OF THE AIR QUALITY CONTROL ACT TO PROVIDE FOR BEST AVAILABLE CONTROL TECHNOLOGY FOR MERCURY EMISSIONS FROM POWER PLANTS.

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

### **Chapter 143 Section 1 Laws 2007**

Section 1. Section 74-2-5 NMSA 1978 (being Laws 1967, Chapter 277, Section 5, as amended) is amended to read:

"74-2-5. DUTIES AND POWERS--ENVIRONMENTAL IMPROVEMENT BOARD--LOCAL BOARD.--

A. The environmental improvement board or the local board shall prevent or abate air pollution.

B. The environmental improvement board or the local board shall:

(1) adopt, promulgate, publish, amend and repeal regulations consistent with the Air Quality Control Act to attain and maintain national ambient air quality standards and prevent or abate air pollution, including regulations prescribing air standards, within the geographic area of the environmental improvement board's jurisdiction or the local board's jurisdiction, or any part thereof; and

(2) adopt a plan for the regulation, control, prevention or abatement of air pollution, recognizing the differences, needs, requirements and conditions within the geographic area of the environmental improvement board's jurisdiction or the local board's jurisdiction or any part thereof.

C. Regulations adopted by the environmental improvement board or the local board may:

(1) include regulations to protect visibility in mandatory class I areas to prevent significant deterioration of air quality and to achieve national ambient air quality standards in nonattainment areas; provided that such regulations:

(a) shall be no more stringent than but at least as stringent as required by the federal act and federal regulations pertaining to visibility protection in mandatory class I areas, pertaining to prevention of significant deterioration and pertaining to nonattainment areas; and

(b) shall be applicable only to sources subject to such regulation pursuant to the federal act;

(2) prescribe standards of performance for sources and emission standards for hazardous air pollutants that, except as provided in this subsection:

(a) shall be no more stringent than but at least as stringent as required by federal standards of performance; and

(b) shall be applicable only to sources subject to such federal standards of performance;

(3) include regulations governing emissions from solid waste incinerators that shall be at least as stringent as, and may be more stringent than, any applicable federal emission limitations;

(4) include regulations requiring the installation of control technology for mercury emissions that removes the greater of what is achievable with best available control technology or ninety percent of the mercury from the input fuel for all coal-fired power plants, except for coal-fired power plants constructed and generating electric power and energy before July 1, 2007;

(5) require notice to the department or the local agency of the intent to introduce or permit the introduction of an air contaminant into the air within the geographical area of the environmental improvement board's jurisdiction or the local board's jurisdiction; and

(6) require any person emitting any air contaminant to:

(a) install, use and maintain emission monitoring devices;

(b) sample emissions in accordance with methods and at locations and intervals as may be prescribed by the environmental improvement board or the local board;

(c) establish and maintain records of the nature and amount of emissions;

(d) submit reports regarding the nature and amounts of emissions and the performance of emission control devices; and

(e) provide any other reasonable information relating to the emission of air contaminants.

D. Any regulation adopted pursuant to this section shall be consistent with federal law, if any, relating to control of motor vehicle emissions.

E. In making its regulations, the environmental improvement board or the local board shall give weight it deems appropriate to all facts and circumstances, including but not limited to:

(1) character and degree of injury to or interference with health, welfare, visibility and property;

(2) the public interest, including the social and economic value of the sources and subjects of air contaminants; and

(3) technical practicability and economic reasonableness of reducing or eliminating air contaminants from the sources involved and previous experience with equipment and methods available to control the air contaminants involved."

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House Bill 318, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 144**

AN ACT

RELATING TO SEXUAL EXPLOITATION OF CHILDREN; PROHIBITING THE USE OF AN IMAGE OF A CHILD TO DEPICT THE CHILD AS PARTICIPATING IN A SEXUAL ACT; PROVIDING PENALTIES.

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

### **Chapter 144 Section 1 Laws 2007**

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.

B. 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.

C. 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, unless the child is under the age of thirteen, in which event the person is guilty of a second degree felony.

D. 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.

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 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.

F. 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.

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

## **Chapter 144 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 336, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 145**

AN ACT

RELATING TO LAND GRANTS; CONFORMING THE GOVERNING STATUTES OF THE CHILILI LAND GRANT WITH THE PROVISIONS OF CHAPTER 49, ARTICLE 1 NMSA 1978; PROVIDING PENALTIES; AMENDING, REPEALING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

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

### **Chapter 145 Section 1 Laws 2007**

Section 1. Section 49-4-1 NMSA 1978 (being Laws 1876, Chapter 51, Section 1) is amended to read:

"49-4-1. CHILILI LAND GRANT-MERCED--RATIFICATION OF PARTITIONS--  
GOVERNANCE.--

A. All apportionments or partitions of land on the grant of Chilili made by Inez Armenta as trustee or by his successors as trustees of the grant to the bona fide residents on the grant are hereby confirmed.

B. The government and control of the common lands of the Chilili land grant-merced, also known as la merced del pueblo de Chilili, is vested in five trustees, to be known officially as "the board of trustees of the Chilili land grant-merced", who shall manage and control the land grant-merced in accordance with the provisions of Chapter 49, Article 4 NMSA 1978."

### **Chapter 145 Section 2 Laws 2007**

Section 2. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in Chapter 49, Article 4 NMSA 1978:

A. "board of trustees" means the board of trustees of the Chilili land grant-merced;

B. "common lands" means lands owned by the Chilili land grant for the benefit of the heirs of the land grant-merced;

C. "heir" means a person who is a descendant of the original grantees and has an interest in the common land of the land grant-merced through inheritance, gift or purchase;

D. "land grant-merced" means the grant of land made by the government of Mexico to the town of Chilili in 1841, which was confirmed by congress in 1858 and issued a patent by the United States in 1909; and

E. "qualified voting member" means an heir who is registered to vote in the land grant-merced as prescribed in the land grant-merced bylaws."

### **Chapter 145 Section 3 Laws 2007**

Section 3. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"MANAGEMENT OF GRANT.--The Chilili land grant-merced shall be controlled and governed by the Treaty of Guadalupe Hidalgo, by the provisions of Chapter 49, Article 4 NMSA 1978 as a political subdivision of the state and by all provisions of its bylaws not in conflict with the Treaty of Guadalupe Hidalgo or state law."

### **Chapter 145 Section 4 Laws 2007**

Section 4. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"BOARD OF TRUSTEES--MANAGEMENT OF GRANT--POWERS.--The board of trustees shall have the power to:

A. control, care for and manage the land grant-merced and real estate owned by the land grant-merced; prescribe the terms and conditions under which the common lands may be used and enjoyed; and make all necessary and proper bylaws, rules and regulations that shall be in substantial compliance with applicable statutes for the government thereof;

B. sue and be sued and have the standing to sue in law or equity to protect and expand the common lands of the land grant-merced;

C. convey, lease or mortgage the common lands of the land grant-merced in accordance with the land grant-merced bylaws;

D. determine the number of animals that may be permitted to graze upon the common lands and determine other uses of the common lands that may be authorized;

E. prescribe the price to be paid for the use of the common lands and resources of the land grant-merced and prohibit a person failing or refusing to pay that amount from using a portion of the common lands while the person continues in default in those payments; provided that the amount fixed shall be in proportion to the number and kinds of livestock pasturing upon the common lands or to other authorized use of the common lands;

F. adopt and use an official seal;

G. appoint judges and clerks of election at all elections provided for in Chapter 49, Article 4 NMSA 1978 and canvass the votes cast in those elections;

H. make bylaws, rules and regulations, not in conflict with the constitution and laws of the United States or the state of New Mexico, as may be necessary for the protection, improvement and management of the common lands and real estate and for the use and enjoyment of the common lands and of the common waters of the land grant-merced;

I. determine land use, local infrastructure and economic development of the common lands of the land grant-merced; and

J. determine zoning of the common lands of the land grant-merced pursuant to a comprehensive plan approved by the local government division of the department of finance and administration that considers the health, safety and general welfare of the residents of the land grant-merced. The department of finance and administration shall select a qualified arbitrator to arbitrate for zoning conflicts between the land grant-merced and neighboring municipalities and counties."

## **Chapter 145 Section 5 Laws 2007**

Section 5. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"BOARD OF TRUSTEES--QUALIFICATIONS.--The board of trustees shall consist of five members. If there is more than one precinct in the land grant-merced, no more than three members shall be residents of the same precinct; provided, however, that if the precinct boundaries do not coincide with the boundaries of the land grant-merced, the board of trustees may create districts that better reflect the distribution of population within the land grant-merced and that any one of which has no more than three members of the board of trustees as residents. A person shall be qualified to be a member of the board if the person is a qualified voting member and is not in default of any dues, rent or other payment for the use of any of the common lands of the land grant-merced."

## **Chapter 145 Section 6 Laws 2007**

Section 6. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"ELECTION OF MEMBERS OF BOARD OF TRUSTEES--VOTERS'  
QUALIFICATIONS--REGISTRATION.--

A. Elections for the board of trustees shall be held on the first Monday in April or on a day designated in the bylaws, either every two or every four years as specified in the bylaws of the land grant-merced.

B. All qualified voting members of the land grant-merced are qualified to vote and may vote for trustees as specified in the land grant-merced bylaws.

C. The registration of qualified voting members shall be conducted in the manner prescribed in the Election Code, substituting the words "board of trustees" and "secretary" wherever the words "county commission" and "county clerk" are used in that code.

D. The registration books compiled before each election shall be used at that election. A person shall not vote at the election unless duly registered in the books, and a ballot of any unregistered person shall not be counted or canvassed.

E. The board of trustees shall give public notice in Spanish and English of the time of the election and fix and give notice of the polling places in each precinct by handbills posted in at least five public places in each precinct at least fifteen days prior to the election. Notice shall also be given by publication fifteen days prior to the election in a newspaper in general circulation within the land grant-merced if there is one.

F. Elections shall be conducted, as nearly as is practicable, in the same manner as provided by law for the holding of general elections in this state. The judges and clerks of elections shall be appointed and the votes canvassed by the board of trustees."

## **Chapter 145 Section 7 Laws 2007**

Section 7. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"ELECTION--CANVASSING VOTES.--The election judges and board of trustees shall meet not later than seven days following the election and canvass the votes cast and issue to each of the five persons having a majority of votes a certificate showing that each one has been duly elected."

## **Chapter 145 Section 8 Laws 2007**

Section 8. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

## "ORGANIZATION OF BOARD--BONDS--VACANCIES.--

A. All members of the newly elected board of trustees shall meet no later than seven days after the votes are canvassed and organize themselves by the election of a president, secretary and treasurer. The treasurer shall perform such duties as may be required by the board and shall furnish to the board a good and sufficient surety bond in a sum as set forth in this section, to be conditioned as are the bonds of other public officials handling public money. It is the duty of the treasurer to deposit all the money of the land grant-merced in a bank organized and doing business in New Mexico.

B. In the event of the death or resignation of the treasurer, the board shall fill the vacancy by appointing one of the members of the board as treasurer, who shall, before entering into the performance of the duties as treasurer, execute and furnish to the board a good and sufficient surety bond, similar to the bond entered into by the predecessor.

C. The amount of the bond required of the treasurer and the treasurer's successor shall at all times be for a sum of at least double the amount received by and deposited in the bank by the treasurer.

D. In the event the board of trustees delegates any other of its members to collect money due the land grant-merced, that person shall be bonded in the same manner as is provided in this section for the bonding of the treasurer.

E. Those authorized to collect money shall give receipts for the money collected, which receipts shall be in the form prescribed by the board of trustees in the bylaws as an official receipt."

## **Chapter 145 Section 9 Laws 2007**

Section 9. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"MEETINGS.--Regular meetings of the board of trustees shall be held no less than quarterly and in a public place as the board may determine in accordance with the bylaws. The time and place of regular meetings shall be posted in Spanish and English in a public place within the land grant-merced at least ten days prior to the meeting. Special meetings may be held at any time on call of the president, with five days' notice being given to each member."

## **Chapter 145 Section 10 Laws 2007**

Section 10. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"QUORUM.--A majority of the members of the board of trustees shall constitute a quorum for the transaction of business, and the land grant-merced and its inhabitants

shall be bound by the acts of the board pursuant to the provisions of Chapter 49, Article 4 NMSA 1978 and the land grant-merced bylaws."

## **Chapter 145 Section 11 Laws 2007**

Section 11. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

### **"SALE OR MORTGAGE OF COMMON LANDS--RESTRICTIONS.--**

A. A conveyance of a portion of or all of the common lands of the land grant-merced shall be effective only if:

- (1) the conveyance is made in accordance with the land grant-merced bylaws and this section;
- (2) the conveyance is made for the benefit of the land grant-merced;
- (3) the board of trustees has approved a resolution to make the conveyance at a regular meeting held in accordance with Sections 9 and 12 of this 2007 act;
- (4) the board of trustees has petitioned for an order affirming the board's resolution from the district court of the district in which the property is located; and
- (5) the district court has issued an order affirming the board of trustees' resolution pursuant to Subsection D of this section.

B. An heir may file a written protest of a conveyance with the board of trustees and the district court within thirty days of the date that the resolution approving the conveyance is passed by the board. The board of trustees shall address and make a decision on the protest at a special meeting held in accordance with Sections 9 and 12 of this 2007 act within thirty days of receiving the protest.

C. An heir dissatisfied with a decision of the board of trustees may appeal to the district court of the county in which the property is located in the following manner:

(1) appeals to the district court shall be taken by serving a notice of appeal upon the board within thirty days of the decision. If an appeal is not timely taken, the action of the board of trustees is conclusive;

(2) the notice of appeal may be served in the same manner as a summons in civil actions brought before the district court or by publication in a newspaper printed in the county in which the property is located, once per week for four consecutive weeks. The last publication shall be at least twenty days prior to the date the appeal may be heard. Proof of service of the notice of appeal shall be made in the same

manner as in actions brought in the district court and shall be filed in the district court within thirty days after service is complete. At the time of filing the proof of service and upon payment by the appellant of the civil docket fee, the clerk of the district court shall docket the appeal;

(3) costs shall be taxed in the same manner as in cases brought in the district court, and bond for costs may be required upon proper application; and

(4) the proceeding upon appeal shall be

de novo as cases originally docketed in the district court. Evidence taken in a hearing before the board of trustees may be considered as original evidence subject to legal objection, the same as if the evidence was originally offered in the district court. The court shall allow all amendments that may be necessary in furtherance of justice and may submit any question of fact to a jury or to one or more referees at its discretion.

D. If the district court finds that all requirements of this section have been satisfied and that all protests and appeals are concluded, the court shall issue its order affirming the board of trustees' resolution conveying the property.

E. After the district court issues its order, the board of trustees shall execute the necessary documents in the name and under the seal of the land grant-merced, and all heirs shall be bound by the board's conveyance."

## **Chapter 145 Section 12 Laws 2007**

Section 12. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"MEETINGS TO BE PUBLIC--ANNUAL REPORT.--

A. All meetings of the board of trustees shall be held in accordance with the Open Meetings Act. Executive sessions shall not be held except in accordance with the Open Meetings Act. All heirs of the land grant-merced shall have the right to be present at all times when the board of trustees is in session and to be heard on all matters in which they may be interested.

B. The board of trustees shall annually make public a report of all its transactions for that year. The report shall include agendas, minutes, any actions taken and all financial transactions. The report shall be maintained in a public place and available for public review.

C. The secretary of the board of trustees shall reduce to writing, in a book kept for that purpose, minutes of the business transacted at each meeting of the board of trustees."

## **Chapter 145 Section 13 Laws 2007**

Section 13. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"VACANCIES.--If a vacancy occurs on the board of trustees, the remaining members shall fill the vacancy by appointment made at a regular meeting. The person appointed shall hold office until the next regular election."

## **Chapter 145 Section 14 Laws 2007**

Section 14. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"SALARIES OF TRUSTEES--RECORDS--EXPENDITURES.--

A. The board of trustees may fix in the land grant-merced bylaws and pay to its members a salary not to exceed two hundred dollars (\$200) to any member in one month. The salary as fixed shall be in full as compensation for the duties performed by the board of trustees or the individual members within the exterior boundaries of the land grant-merced and for attendance at regularly scheduled meetings. The secretary of the board of trustees may be allowed a salary not to exceed two hundred twenty-five dollars (\$225) in one month.

B. Board of trustees members may be authorized per diem and mileage pursuant to the Per Diem and Mileage Act.

C. The board of trustees and the treasurer shall keep permanent and legible records capable of audit, and no money or funds shall be paid by the board of trustees or by any person authorized to expend money except by written check drawn upon vouchers."

## **Chapter 145 Section 15 Laws 2007**

Section 15. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"PROTECTION OF COMMON LANDS-- DELINQUENCY--FORFEITURE.--

A. If the board of trustees brings an action in accordance with Subsection B of Section 4 of this 2007 act and judgment is rendered in favor of the board of trustees, the court may award to the board of trustees possession of the tract, piece or parcel of the land and such damages as it may have proved for the wrongful detention and any other remedy provided for by law.

B. A delinquent heir shall lose all right that the heir may have had to use the common lands of the land grant-merced unless the heir pays in full all legal assessments or dues due by the heir."

### **Chapter 145 Section 16 Laws 2007**

Section 16. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"TRESPASS ON COMMON LANDS OR WATERS--INJUNCTIONS.--The courts of this state shall entertain bills of complaint filed by the board of trustees of the land grant-

merced to enjoin persons from trespassing upon the common lands or using the common waters within the land grant-merced if it appears that the complainant is without a plain, speedy and adequate remedy at law or that the persons committing trespass are insolvent or unable to respond in damages."

### **Chapter 145 Section 17 Laws 2007**

Section 17. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"PROCESS--HOW SERVED ON BOARD.--Process in all actions or suits against the board of trustees of the land grant-merced shall be served upon the president or, in the president's absence, upon the secretary."

### **Chapter 145 Section 18 Laws 2007**

Section 18. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"REGISTRATION.--The board of trustees shall register its bylaws and a list of current officers with the secretary of state in accordance with the provisions of Section 49-1-

23 NMSA 1978. The board of trustees shall notify the secretary of state of the names and positions of the land grant-merced's elected or appointed officers upon their election or appointment."

### **Chapter 145 Section 19 Laws 2007**

Section 19. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"FAILURE OF TRUSTEE TO PERFORM DUTIES--PENALTY.--Any member of the board of trustees who fails or refuses to perform any of the duties required to be performed by the board of trustees of the land grant-merced by Chapter 49, Article 4 NMSA 1978 or by any other law of New Mexico is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) or by imprisonment in the county jail for a period of not less than thirty days nor more than ninety days, or both."

## **Chapter 145 Section 20 Laws 2007**

Section 20. A new section of Chapter 49, Article 4 NMSA 1978 is enacted to read:

"RIGHTS OF LESSEES AND PURCHASERS.--

A. A person who is not an heir and who purchases or leases property within the limits of the land grant-merced shall only have a right to the lands acquired through the purchase or lease but not to any common lands within the land grant-merced.

B. The provisions of Chapter 49, Article 4 NMSA 1978 shall not diminish, extinguish or otherwise impair any private property interest located within the boundaries of the land grant-merced or be construed to grant the board of trustees regulatory authority over such property interests or lands other than the common lands held by the land grant-merced. As used in this subsection, "property interest" includes valid easements and rights of access, but does not include use rights to the common lands of the land grant-merced."

## **Chapter 145 Section 21 Laws 2007**

Section 21. REPEAL.--Sections 49-4-2 and 49-4-3 NMSA 1978 (being Laws 1876, Chapter 51, Sections 2 and 3, as amended) are repealed.

## **Chapter 145 Section 22 Laws 2007**

Section 22. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Judiciary Committee Substitute

for House Bill 340, as amended

Approved April 2, 2007

# **LAWS 2007, CHAPTER 146**

AN ACT

RELATING TO SCHOOL PERSONNEL; ALLOWING ALTERNATIVE LEVEL TWO AND THREE LICENSURE FOR PERSONS WITH POST-BACCALAUREATE DEGREES AND POST-SECONDARY TEACHING OR ADMINISTRATION EXPERIENCE.

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

## **Chapter 146 Section 1 Laws 2007**

Section 1. A new section of the School Personnel Act, Section 22-10A-11.1 NMSA 1978, is enacted to read:

"22-10A-11.1. ALTERNATIVE LEVEL TWO OR LEVEL THREE LICENSE.--

A. At the end of an internship of at least one full school year, the department may issue an alternative level two license to a person who is at least eighteen years of age and who has a post-baccalaureate degree and at least five years' experience teaching at the post-

secondary level if the person demonstrates to the department, in conjunction with the school district, charter school, private school or state agency, that the person has met other department-approved competencies for issuance of a level two license that correspond to the grade level and subject area that the person will teach.

B. At the end of an internship of at least one full school year, the department may issue an alternative level three-A or level three-B license to a person who is at least eighteen years of age and who has a post-baccalaureate degree and at least six years' experience teaching or administering at the post-secondary level if the person demonstrates to the department, in conjunction with the school district, charter school, private school or state agency, that the person has met other department-approved competencies for issuance of a level three-A license that correspond to the grade level and subject area that the person will teach or for issuance of a level three-B license for administration."

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House Bill 345

Approved April 2, 2007

## **LAWS 2007, CHAPTER 147**

## AN ACT

RELATING TO COURTS; CREATING THE COURT OF APPEALS BUILDING COMMISSION.

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

### **Chapter 147 Section 1 Laws 2007**

Section 1. COURT OF APPEALS BUILDING COMMISSION--CREATION--MEMBERSHIP.--

A. The "court of appeals building commission" is created within the judicial branch. The court of appeals building commission shall be composed of the chief judge of the court of appeals; the chief clerk of the court of appeals; one member of the supreme court appointed by the chief justice of the supreme court; and two public members with architectural or engineering expertise appointed by the chief judge of the court of appeals.

B. Each member of the court of appeals building commission shall qualify by taking the oath prescribed by the constitution of New Mexico for state officers. An appointed member shall hold office until there is a change in the appointing authority and the member's successor is appointed. Vacancies shall be filled in the same manner as the original appointment. Members shall receive reimbursement as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance. No member shall be interested, directly or indirectly, in any contract relating to the construction, equipment or maintenance of the court of appeals building, and any contract made in violation of this sentence is void.

### **Chapter 147 Section 2 Laws 2007**

Section 2. COURT OF APPEALS BUILDING COMMISSION--ORGANIZATION.--  
The court of appeals building commission shall elect from its membership a chair, a vice chair and a secretary. The chair shall preside at all meetings of the commission and shall sign on behalf of the commission all contracts and necessary papers authorized by the commission. In the absence of the chair, the vice chair shall exercise the chair's duties. The secretary shall keep complete records of all commission business and shall approve all vouchers submitted to the department of finance and administration for the expenditure of funds available to the commission. Three members of the commission constitute a quorum for the transaction of business, and all actions of the commission shall be by a majority vote of members present.

### **Chapter 147 Section 3 Laws 2007**

Section 3. COURT OF APPEALS BUILDING COMMISSION--DUTIES.--

A. The court of appeals building commission has care, custody and control of the court of appeals building and its grounds, along with all court of appeals equipment, furniture and fixtures housed in the building. The court of appeals shall report and record all these assets as required by state audit rules.

B. With respect to the property under the care, custody and control of the court of appeals pursuant to Subsection A of this section, the court of appeals building commission shall:

(1) provide for the design, construction, maintenance, repair, cleaning, heating, cooling and lighting of that property; and

(2) subject to legislative appropriation, hire employees as necessary and fix their compensation and terms of employment; provided that no compensation shall be paid to a person who is compensated by another agency of the state.

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House Bill 350

Approved April 2, 2007

## **LAWS 2007, CHAPTER 148**

AN ACT

RELATING TO TAXATION; AUTHORIZING A MUNICIPAL HIGHER EDUCATION FACILITIES GROSS RECEIPTS TAX; AUTHORIZING ISSUANCE OF MUNICIPAL REVENUE BONDS.

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

### **Chapter 148 Section 1 Laws 2007**

Section 1. A new section of the Municipal Local Option Gross Receipts Taxes Act is enacted to read:

"MUNICIPAL HIGHER EDUCATION FACILITIES GROSS RECEIPTS TAX.--

A. The majority of the members of the governing body of an eligible municipality may impose by ordinance an excise tax at a rate not to exceed one-fourth of one percent of the gross receipts of a person engaging in business in the municipality for the privilege of engaging in business. The tax may be imposed in increments of one-sixteenth of one percent not to exceed an aggregate rate of one-fourth of one percent. The tax shall be imposed for a period of not more than twenty years from the effective date of the ordinance imposing the tax.

B. The tax imposed pursuant to this section may be referred to as the "municipal higher education facilities gross receipts tax".

C. The governing body, at the time of enacting an ordinance imposing a rate of tax authorized in Subsection A of this section, shall dedicate the revenue only for:

(1) acquisition, construction, renovation or improvement of facilities of a four-year post-secondary public educational institution located in the municipality and acquisition of or improvements to land for those facilities; or

(2) payment of municipal higher education facilities gross receipts tax revenue bonds issued pursuant to Chapter 3, Article 31 NMSA 1978.

D. An ordinance imposing any increment of the municipal higher education facilities gross receipts tax shall not go into effect until after an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election on the question of imposing the tax at the next regular municipal election. The question shall be submitted to the voters of the municipality as a separate question. If a majority of the voters voting on the question approves the ordinance imposing the municipal higher education facilities gross receipts tax, the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If the question of imposing the municipal higher education facilities gross receipts tax fails, the governing body shall not again propose the imposition of any increment of the tax for a period of one year from the date of the election.

E. For the purposes of this section, "eligible municipality" means a municipality that has a population greater than fifty thousand according to the most recent federal decennial census and that is located in a class B county having a net taxable value for rate-setting purposes for the 2006 property tax year or any subsequent year of more than two billion dollars (\$2,000,000,000)."

## **Chapter 148 Section 2 Laws 2007**

Section 2. Section 3-31-1 NMSA 1978 (being Laws 1973, Chapter 395, Section 3, as amended) is amended to read:

"3-31-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES--LIMITATION ON TIME OF ISSUANCE.--In addition to any other law and constitutional home rule powers authorizing a municipality to issue revenue bonds, a municipality may issue revenue bonds pursuant to Chapter 3, Article 31 NMSA 1978 for the purposes specified in this section. The term "pledged revenues", as used in Chapter 3, Article 31 NMSA 1978, means the revenues, net income or net revenues authorized to be pledged to the payment of particular revenue bonds as specifically provided in Subsections A through J of this section.

A. Utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving a municipal utility or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of the municipal utility or of any one or more of other such municipal utilities for payment of the interest on and principal of the revenue bonds. These bonds are sometimes referred to in Chapter 3, Article 31 NMSA 1978 as "utility revenue bonds" or "utility bonds".

B. Joint utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving joint water facilities, sewer facilities, gas facilities or electric facilities or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of these municipal utilities for the payment of the interest on and principal of the bonds. These bonds are sometimes referred to in Chapter 3, Article 31 NMSA 1978 as "joint utility revenue bonds" or "joint utility bonds".

C. For the purposes of this subsection, "gross receipts tax revenue bonds" means gross receipts tax revenue bonds or sales tax revenue bonds. Gross receipts tax revenue bonds may be issued for any one or more of the following purposes:

(1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to one or more public buildings or purchasing or improving any ground relating thereto, including but not necessarily limited to acquiring and improving parking lots, or any combination of the foregoing;

(2) acquiring or improving municipal or public parking lots, structures or facilities or any combination of the foregoing;

(3) purchasing, acquiring or rehabilitating firefighting equipment or any combination of the foregoing;

(4) acquiring, extending, enlarging, bettering, repairing, otherwise improving or maintaining storm sewers and other drainage improvements, sanitary sewers, sewage treatment plants or water utilities, including but not necessarily limited to the acquisition of rights of way and water and water rights, or any combination of the foregoing;

(5) reconstructing, resurfacing, maintaining, repairing or otherwise improving existing alleys, streets, roads or bridges or any combination of the foregoing or laying off, opening, constructing or otherwise acquiring new alleys, streets, roads or bridges or any combination of the foregoing; provided that any of the foregoing improvements may include but are not limited to the acquisition of rights of way;

(6) purchasing, acquiring, constructing, making additions to, enlarging, bettering, extending or equipping airport facilities or any combination of the foregoing, including without limitation the acquisition of land, easements or rights of way therefor;

(7) purchasing or otherwise acquiring or clearing land or for purchasing, otherwise acquiring and beautifying land for open space;

(8) acquiring, constructing, purchasing, equipping, furnishing, making additions to, renovating, rehabilitating, beautifying or otherwise improving public parks, public recreational buildings or other public recreational facilities or any combination of the foregoing;

(9) acquiring, constructing, extending, enlarging, bettering, repairing, otherwise improving or maintaining solid waste disposal equipment, equipment for operation and maintenance of sanitary landfills, sanitary landfills, solid waste facilities or any combination of the foregoing; and

(10) acquiring, constructing, extending, bettering, repairing or otherwise improving a public transit system or regional transit systems or facilities.

The municipality may pledge irrevocably any or all of the gross receipts tax revenue received by the municipality pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA 1978 to the payment of the interest on and principal of the gross receipts tax revenue bonds for any of the purposes authorized in this section or for specific purposes or for any area of municipal government services, including but not limited to those specified in Subsection C of Section 7-19D-9 NMSA 1978, or for public purposes authorized by municipalities having constitutional home rule charters. A law that imposes or authorizes the imposition of a municipal gross receipts tax or that affects the municipal gross receipts tax, or a law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal gross receipts tax unless the outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

Revenues in excess of the annual principal and interest due on gross receipts tax revenue bonds secured by a pledge of gross receipts tax revenue may be accumulated in a debt service reserve account. The governing body of the municipality may appoint a commercial bank trust department to act as trustee of the gross receipts tax revenue and to administer the payment of principal of and interest on the bonds.

D. As used in this section, the term "public building" includes but is not limited to fire stations, police buildings, municipal jails, regional jails or juvenile detention facilities, libraries, museums, auditoriums, convention halls, hospitals, buildings for administrative offices, city halls and garages for housing, repairing and maintaining city vehicles and equipment. As used in Chapter 3, Article 31 NMSA 1978, the term "gross receipts tax revenue bonds" means the bonds authorized in Subsection C of this section, and the term "gross receipts tax revenue" means the amount of money distributed to the municipality as authorized by Section 7-1-6.4 NMSA 1978 or the amount of money transferred to the municipality as authorized by Section

7-1-6.12 NMSA 1978 for any municipal gross receipts tax imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act. As used in Chapter 3, Article 31 NMSA 1978, the term "bond" means any obligation of a municipality issued under Chapter 3, Article 31 NMSA 1978, whether designated as a bond, note, loan, warrant, debenture, lease-purchase agreement or other instrument evidencing an obligation of a municipality to make payments.

E. Gasoline tax revenue bonds may be issued for laying off, opening, constructing, reconstructing, resurfacing, maintaining, acquiring rights of way, repairing and otherwise improving municipal buildings, alleys, streets, public roads and bridges or any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the gasoline tax revenue received by the municipality to the payment of the interest on and principal of the gasoline tax revenue bonds. As used in Chapter 3, Article 31 NMSA 1978, "gasoline tax revenue bonds" means the bonds authorized in this subsection, and "gasoline tax revenue" means all or portions of the amounts of tax revenues distributed to municipalities pursuant to Sections 7-1-6.9 and 7-1-6.27 NMSA 1978, as from time to time amended and supplemented.

F. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any revenue-producing project, including, where applicable, purchasing, otherwise acquiring or improving the ground therefor, including but not necessarily limited to acquiring and improving parking lots, or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of the revenue-producing project for which the particular project revenue bonds are issued to the payment of the interest on and principal of the project revenue bonds. The net revenues of any revenue-producing project may not be pledged to the project revenue bonds issued for a revenue-producing project that clearly is unrelated in nature; but nothing in this subsection shall prevent the pledge to such project revenue bonds of any revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular revenue-producing project. A general determination by the governing body that any facilities or equipment is reasonably related to and constitutes a part of a specified revenue-producing project shall be conclusive if set forth in the proceedings authorizing the project revenue bonds. As used in Chapter 3, Article 31 NMSA 1978:

(1) "project revenue bonds" means the bonds authorized in this subsection; and

(2) "project revenues" means the net revenues of revenue-producing projects that may be pledged to project revenue bonds pursuant to this subsection.

G. Fire district revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any fire district project, including where applicable purchasing, otherwise acquiring or improving the ground therefor, or for any combination of the foregoing

purposes. The municipality may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in the Fire Protection Fund Law and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of any fire district project shall not be pledged to the bonds issued for a fire district project that clearly is unrelated in its purpose; but nothing in this section prevents the pledge to such bonds of any revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district project. A general determination by the governing body of the municipality that any facilities or equipment is reasonably related to and constitutes a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing the fire district bonds.

H. Law enforcement protection revenue bonds may be issued for the repair and purchase of law enforcement apparatus and equipment that meet nationally recognized standards. The municipality may pledge irrevocably any or all of the revenues received by the municipality from the law enforcement protection fund distributions pursuant to the Law Enforcement Protection Fund Act to the payment of the interest on and principal of the law enforcement protection revenue bonds.

I. Economic development gross receipts tax revenue bonds may be issued for the purpose of furthering economic development projects as defined in the Local Economic Development Act. The municipality may pledge irrevocably any or all of the revenue received from the municipal infrastructure gross receipts tax to the payment of the interest on and principal of the economic development gross receipts tax revenue bonds for any of the purposes authorized in this subsection. A law that imposes or authorizes the imposition of a municipal infrastructure gross receipts tax or that affects the municipal infrastructure gross receipts tax, or a law supplemental to or otherwise pertaining to the tax, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of the municipal infrastructure gross receipts tax unless the outstanding revenue bonds have been discharged in full or provision has been fully made for their discharge. As used in Chapter 3, Article 31 NMSA 1978, "economic development gross receipts tax revenue bonds" means the bonds authorized in this subsection, and "municipal infrastructure gross receipts tax revenue" means any or all of the revenue from the municipal infrastructure gross receipts tax transferred to the municipality pursuant to Section 7-1-6.12 NMSA 1978.

J. Municipal higher education facilities gross receipts tax revenue bonds may be issued for the purpose of acquisition, construction, renovation or improvement of facilities of a four-year post-secondary public educational institution located in the municipality and acquisition of or improvements to land for those facilities. The municipality may pledge irrevocably any or all of the revenue received from the municipal higher education facilities gross receipts tax to the payment of the interest on and principal of the municipal higher education facilities gross receipts tax revenue bonds. A law that imposes or authorizes the imposition of a municipal higher education

facilities gross receipts tax or that affects the municipal higher education facilities gross receipts tax, or a law supplemental to or otherwise pertaining to the tax, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of the municipal higher education facilities gross receipts tax unless the outstanding revenue bonds have been discharged in full or provision has been fully made for their discharge. As used in Chapter 3, Article 31 NMSA 1978, "municipal higher education facilities gross receipts tax revenue bonds" means the bonds authorized in this subsection and "municipal higher education facilities gross receipts tax revenue" means any or all of the revenue from the municipal higher education facilities gross receipts tax transferred to the municipality pursuant to Section 7-1-6.12 NMSA 1978.

K. Except for the purpose of refunding previous revenue bond issues, no municipality may sell revenue bonds payable from pledged revenues after the expiration of two years from the date of the ordinance authorizing the issuance of the bonds or, for bonds to be issued and sold to the New Mexico finance authority as authorized in Subsection C of Section 3-31-4 NMSA 1978, after the expiration of two years from the date of the resolution authorizing the issuance of the bonds. However, any period of time during which a particular revenue bond issue is in litigation shall not be counted in determining the expiration date of that issue."

## **Chapter 148 Section 3 Laws 2007**

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 374, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 149**

AN ACT

RELATING TO FIREFIGHTERS; ENACTING THE FIREFIGHTERS' SURVIVORS SUPPLEMENTAL BENEFITS ACT; CREATING THE FIREFIGHTERS' SURVIVORS FUND; PROVIDING FOR A DISTRIBUTION TO THE FUND; MAKING AN APPROPRIATION.

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

## **Chapter 149 Section 1 Laws 2007**

Section 1. SHORT TITLE.--Sections 1 through 5 of this act may be cited as the "Firefighters' Survivors Supplemental Benefits Act".

## **Chapter 149 Section 2 Laws 2007**

Section 2. FINDINGS--PURPOSE.--The legislature finds that firefighters throughout the state risk their lives daily to protect the residents of New Mexico. The legislature further finds that when firefighters are killed in the line of duty, their immediate families can suffer grievously, both emotionally and economically. To recognize the substantial public safety benefits conferred by firefighters, and in consideration of the sacrifices undertaken by these individuals and their families for the residents of New Mexico, it is the purpose of the Firefighters' Survivors Supplemental Benefits Act to ensure that certain supplemental death benefits accrue to the spouses and surviving children, or parents if there are no surviving children or spouse, of firefighters killed in the line of duty.

## **Chapter 149 Section 3 Laws 2007**

Section 3. DEFINITIONS.--As used in the Firefighters' Survivors Supplemental Benefits Act:

A. "firefighter" means any full- or part-time member or a volunteer member of a fire department that is part of or administered by the state or any political subdivision of the state and any red-carded firefighter trained in wildland firefighting skills and hired by the state of New Mexico; and

B. "fund" means the firefighters' survivors fund.

## **Chapter 149 Section 4 Laws 2007**

Section 4. FIREFIGHTERS' SURVIVORS FUND CREATED.--The "firefighters' survivors fund" is created in the state treasury and shall be administered by the state fire marshal. The fund shall consist of all gifts, donations and bequests of money to the fund as well as any appropriations and distributions made to the fund. Earnings from investment of the fund shall be credited to the fund. Money in the fund is appropriated to the state fire marshal for the purpose of paying death benefits pursuant to the Firefighters' 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 state fire marshal. Any unexpended or unencumbered balance remaining in the fund at the end of any fiscal year shall not revert.

## **Chapter 149 Section 5 Laws 2007**

Section 5. FIREFIGHTERS' SURVIVORS SUPPLEMENTAL BENEFITS--REVIEW COMMITTEE--DETERMINATION--PAYMENT.--

A. There is created the "firefighters' survivors supplemental death benefits review committee". The committee shall consist of the attorney general, the president of the New Mexico fire chiefs association, the state president of the New Mexico professional firefighters association and the president of the New Mexico state fire fighters association or their designees.

B. The firefighters' survivors supplemental death benefits review committee shall determine whether a firefighter has been killed in the line of duty and advise the state fire marshal of that determination. In addition to any other death benefits provided by law, the surviving spouse or children shall be paid fifty thousand dollars (\$50,000) as supplemental death benefits whenever a firefighter is killed in the line of duty. The benefits shall be paid from the fund.

C. The benefits shall be paid entirely 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 firefighter.

## **Chapter 149 Section 6 Laws 2007**

Section 6. Section 59A-53-7 NMSA 1978 (being Laws 1984, Chapter 127, Section 978, as amended) is amended to read:

### **"59A-53-7. DISTRIBUTION OF FIRE PROTECTION FUND.--**

A. Annually on or before the last day of July, the state treasurer shall distribute from the money in the fire protection fund, to each incorporated municipality and to each county fire district, the amount the marshal or the commission, as the case may be, has certified to the state treasurer. Payment shall be made to the treasurer of any incorporated municipality and to the county treasurer of the county in which any county fire district is located for credit to the county fire district.

B. The state treasurer is authorized to redirect a distribution to the New Mexico finance authority in the amount the marshal or the commission, as the case may be, has certified to the state treasurer pursuant to an ordinance or a resolution passed by the municipality or county and a written agreement of the municipality or county in which any county fire district is located and the New Mexico finance authority.

C. In addition to the distributions made pursuant to Subsections A and B of this section, upon certification by the marshal that the balance of the firefighters' survivors fund is less than fifty thousand dollars (\$50,000), the state treasurer shall distribute an amount from the fire protection fund to the firefighters' survivors fund so that the balance of the firefighters' survivors fund equals fifty thousand dollars (\$50,000)."

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House Bill 377, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 150**

AN ACT

RELATING TO HIGHER EDUCATION; PROVIDING FOR FACULTY INFORMATION IN THE ANNUAL ACCOUNTABILITY REPORT FOR HIGHER EDUCATION; PROVIDING FOR A PAY SCHEDULE FOR PART-TIME FACULTY.

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

### **Chapter 150 Section 1 Laws 2007**

Section 1. Section 21-1-26.7 NMSA 1978 (being Laws 1990 (1st S.S.), Chapter 4, Section 2, as amended) is amended to read:

"21-1-26.7. ANNUAL ACCOUNTABILITY REPORT.--

A. The higher education department shall submit an annual accountability report to the governor and to the legislature by December 31. Prior to publication, the department shall distribute a draft of the accountability report to all public post-secondary educational institutions and shall allow comment upon the draft report.

B. The department in consultation with each public post-secondary educational institution shall develop and adopt the content and a format for the report, including the following information:

- (1) student progress and success;
- (2) student access and diversity;
- (3) affordability and cost of educational services;
- (4) public and community service by the institution; and
- (5) faculty, compensation and benefits practices, including:

(a) number and percentage of part-time and full-time faculty;

(b) per-credit-hour pay rate for full-time instructors or lecturers and per-credit-hour pay rate for part-time faculty;

(c) percent salary increase for full-time faculty and percent salary increase for part-time faculty; and

(d) description of the institution's policy for offering benefits to full-time faculty and to part-time faculty.

C. The department shall make no funding recommendation, capital outlay recommendation, distribution or certification on behalf of any public post-secondary educational institution that has not submitted the information required pursuant to this section."

## **Chapter 150 Section 2 Laws 2007**

Section 2. TEMPORARY PROVISION--PART-TIME FACULTY COMPENSATION.-- The higher education department shall work with the public post-secondary educational institutions to establish a pay schedule for part-time faculty to be subject to legislative appropriation.

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House Bill 384, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 151**

AN ACT

RELATING TO MOTOR CARRIERS; REPORTING OF POSITIVE DRUG AND ALCOHOL TESTS.

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

## **Chapter 151 Section 1 Laws 2007**

Section 1. A new section of the Motor Carrier Safety Act is enacted to read:

"DRUG AND ALCOHOL TESTING PROGRAM--REPORT OF POSITIVE TEST.--

A. A motor carrier shall have an in-house drug and alcohol testing program that meets the requirements of 49 C.F.R. part 382 or be a member of a consortium, as defined in 49 C.F.R. 382.107, that provides testing that meets the requirements of C.F.R. part 382.

B. At the time of registration or renewal of registration of a commercial motor vehicle, a motor carrier shall certify to the department and to the motor vehicle division of the taxation and revenue department that the motor carrier is in compliance with the requirements of Subsection A of this section. If the motor carrier is a member of a consortium, the motor carrier shall provide the names of the persons who operate the consortium.

C. When a medical review officer of a motor carrier's testing program or of the consortium to which the motor carrier belongs determines that a positive test result is valid, the officer shall report the findings to the motor vehicle division of the taxation and revenue department. The motor vehicle division shall enter the positive test results in the commercial driver's license information system pursuant to the New Mexico Commercial Driver's License Act."

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House Bill 425, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 152**

### **AN ACT**

RELATING TO THE FIRE PROTECTION FUND; PROVIDING FOR AN ANNUAL TRANSFER FROM THE FUND TO THE FIRE PROTECTION GRANT FUND; MAKING AN APPROPRIATION.

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

### **Chapter 152 Section 1 Laws 2007**

Section 1. A new section of the Fire Protection Fund Law is enacted to read:

"APPROPRIATIONS AND TRANSFERS FROM THE FIRE PROTECTION FUND.--

A. For each fiscal year, the amount to be distributed by the marshal pursuant to Sections 59A-53-4, 59A-53-5 and 59A-53-5.1 NMSA 1978 is appropriated from the fire protection fund to the commission for the purpose of making the distributions.

B. For the purposes of Subsections C and D of this section, the "remaining balance in the fire protection fund" shall be calculated on June 30 of each year and shall equal the balance of the fund on that date less the sum of:

(1) the total amount to be distributed during the succeeding fiscal year pursuant to Sections 59A-53-4, 59A-53-5 and 59A-53-5.1 NMSA 1978; and

(2) the total amount of other appropriations from the fire protection fund for the succeeding fiscal year.

C. On the following dates, the following percentages of the remaining balance in the fire protection fund shall be transferred from the fire protection fund to the fire protection grant fund:

(1) on June 30, 2007, six and seven-tenths percent;

(2) on June 30, 2008, thirteen and four-tenths percent;

(3) on June 30, 2009, twenty and one-tenth percent;

(4) on June 30, 2010, twenty-six and eight-tenths percent;

(5) on June 30, 2011, thirty-three and five-tenths percent;

(6) on June 30, 2012, forty and two-tenths percent;

(7) on June 30, 2013, forty-six and nine-tenths percent;

(8) on June 30, 2014, fifty-three and six-tenths percent;

(9) on June 30, 2015, sixty and three-tenths percent;

(10) on June 30, 2016, sixty-seven percent;

(11) on June 30, 2017, seventy-three and seven-tenths percent;

(12) on June 30, 2018, eighty and four-tenths percent;

(13) on June 30, 2019, eighty-seven and one-tenth percent;

(14) on June 30, 2020, ninety-three and eight-tenths percent; and

(15) on June 30, 2021 and on each subsequent June 30, one hundred percent.

D. On June 30 of each year, the remaining balance in the fire protection fund, less the amount to be transferred on that date pursuant to Subsection C of this section, shall be transferred to the general fund; provided that no transfer shall be made pursuant to this subsection after June 30, 2020."

## **Chapter 152 Section 2 Laws 2007**

Section 2. REPEAL.--Section 59A-53-15 NMSA 1978 (being Laws 1984, Chapter 127, Section 986, as amended) is repealed.

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House Bill 466, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 153**

AN ACT

RELATING TO FINANCIAL INSTITUTIONS; ESTABLISHING THE LINKED DEPOSIT PROGRAM.

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

## **Chapter 153 Section 1 Laws 2007**

Section 1. A new Section 6-10-24.2 NMSA 1978 is enacted to read:

"6-10-24.2. LINKED DEPOSIT PROGRAM.--

A. As used in this section:

(1) "financially at risk rural community" means a community with the following characteristics:

(a) no more than one insured bank, thrift institution or credit union within the community; and

(b) a population not exceeding three thousand five hundred; and  
either

(c) a declining population as evidenced by a decrease in population as shown by the two most recent federal decennial censuses; or

(d) a median household income less than eighty percent of the state median household income;

(2) "linked deposit program" means a depository institution's participation in the deposit program established pursuant to this section;

(3) "market rate" means the rate of return established by the state board of finance for deposits held by qualified depository institutions;

(4) "qualified depository institution" means an insured bank, trust institution or credit union qualified pursuant to Section 6-10-15 NMSA 1978;

(5) "qualifying branch" means an office of a qualified depository institution that is open five days a week, has a night deposit box and provides banking services to residents of the community; and

(6) "state deposits" means public funds under the control of the state treasurer or the state treasurer's designee and held by qualified depository institutions.

B. The state treasurer may invest up to fourteen percent of state deposits, not to exceed forty-nine million dollars (\$49,000,000), in qualified depository institutions with a qualifying branch located in a financially at risk rural community. No more than ten million dollars (\$10,000,000) may be deposited in any one qualified depository institution pursuant to the linked deposit program. For funds invested in qualified depository institutions pursuant to the linked deposit program, the state treasurer is authorized to accept a rate of return that is not more than one percent below the market rate.

C. The director of the financial institutions division of the regulation and licensing department shall promulgate rules implementing the provisions of this section. Those rules shall address the following areas:

(1) eligibility criteria for qualified depository institutions participating in the linked deposit program;

(2) application procedures for participation in the linked deposit program;  
and

(3) verification criteria for determining that a qualified depository institution participating in the linked deposit program is meeting the banking service needs of a financially at risk rural community."

## **Chapter 153 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 471, as amended

Approved April 2, 2007

# **LAWS 2007, CHAPTER 154**

## **AN ACT**

RELATING TO FIREFIGHTERS; PROVIDING FOR A DISTRIBUTION TO THE FIREFIGHTERS' SURVIVORS FUND; MAKING AN APPROPRIATION.

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

### **Chapter 154 Section 1 Laws 2007**

Section 1. Section 66-3-422 NMSA 1978 (being Laws 1998, Chapter 21, Section 1, as amended) is amended to read:

"66-3-422. SPECIAL REGISTRATION PLATES FOR FIREFIGHTERS AND VOLUNTEER FIREFIGHTERS.--

A. The department shall issue special registration plates to a person employed as a New Mexico firefighter, upon the submission by the person of proof satisfactory to the department that the person is currently employed as a New Mexico firefighter, including submission of a signed consent form from the fire chief.

B. The department shall issue special registration plates to a person who is an active volunteer firefighter with a volunteer fire department recognized by the state fire marshal upon the submission by the person of proof satisfactory to the department that the person is currently an active member of a recognized volunteer fire department. Such proof shall include the submission of a signed consent form from the fire chief.

C. A person shall not make any representation as being a New Mexico firefighter or volunteer firefighter if the person is not, in fact, a New Mexico firefighter or volunteer firefighter. The secretary shall determine what constitutes satisfactory proof of employment as a New Mexico firefighter or status as a volunteer firefighter.

D. A person who violates the provisions of Subsection C of this section is guilty of a petty misdemeanor and shall be sentenced pursuant to Section 31-19-1 NMSA 1978.

E. A fee of twenty-five dollars (\$25.00), which is in addition to the regular motor vehicle registration fee, shall be collected by the department for the original issuance of the special registration plate for New Mexico firefighters and volunteer firefighters.

F. Ten dollars (\$10.00) of the fee collected pursuant to Subsection E of this section shall be retained by the department and is appropriated to the department to defray the cost of making and issuing special registration plates for New Mexico firefighters and volunteer firefighters.

G. The amount of the fee collected pursuant to this section less any amount distributed pursuant to Subsection F of this section shall be deposited in the firefighters' survivors fund.

H. The secretary shall approve the final plate design for the special registration plates for New Mexico firefighters in accordance with New Mexico law. The secretary shall approve and issue a separate and distinctive plate clearly marked as "volunteer" for issuance to volunteer firefighters.

I. When a person holding a special plate pursuant to this section ceases to be employed as a firefighter or serve as an active volunteer firefighter, the person shall immediately remove the plate from the vehicle and return it to the secretary, at which time it shall be exchanged for a regular registration plate. A firefighter who holds a special plate and retires may retain the special plate."

## **Chapter 154 Section 2 Laws 2007**

### Section 2. EFFECTIVE DATE--CONTINGENCY.--

A. Except as provided in Subsection B of this section, the effective date of the provisions of this act is July 1, 2007.

B. This act is contingent upon the enactment into law of House Bill 377 or Senate Bill 329 or a substantially similar bill of the first session of the forty-eighth legislature that creates the firefighters' survivors fund. If no such bill is enacted into law, the provisions of this act shall not become effective.

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House Bill 484

Approved April 2, 2007

## **LAWS 2007, CHAPTER 155**

### AN ACT

RELATING TO STATE AGENCIES; CREATING EXCEPTIONS TO THE PROHIBITION ON SPOTLIGHTING LAND WHERE BIG GAME OR DOMESTIC LIVESTOCK RESIDE.

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

## **Chapter 155 Section 1 Laws 2007**

Section 1. Section 17-2-31 NMSA 1978 (being Laws 1951, Chapter 171, Section 1) is amended to read:

"17-2-31. USE OF ARTIFICIAL LIGHT WHILE HUNTING PROHIBITED.--It is unlawful for a person or a group of persons together in possession or control of a firearm or other implement to throw or cast the rays of a spotlight or other artificial light into any field, pasture, woodland, forest or prairie where big game or domestic livestock may be, or are reasonably expected to be, whereby any big game animal or domestic animal could be killed by aid of an artificial light. However, the following shall be exempt from the provisions of this section:

A. an officer authorized to enforce the game and livestock laws of the state;

B. a government employee acting in an official capacity;

C. a landowner or lessee or employee of such landowner or lessee, while on the land owned or leased in connection with legitimate activities; or

D. a person who has received a permit or authorization from the department of game and fish to conduct such activities."

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House Energy and Natural Resources

Committee Substitute for House Bill 509

Approved, April 2, 2007.

## **LAWS 2007, CHAPTER 156**

### **AN ACT**

RELATING TO REAL ESTATE DEEDS OF TRUST; DESIGNATING PRIORITY AND TIME PERIODS FOR REDEMPTION RIGHTS AFTER JUDICIAL FORECLOSURE; AMENDING THE DEED OF TRUST ACT; DECLARING AN EMERGENCY.

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

### **Chapter 156 Section 1 Laws 2007**

Section 1. Section 39-5-18 NMSA 1978 (being Laws 1931, Chapter 149, Section 2, as amended) is amended to read:

"39-5-18. REDEMPTION OF REAL PROPERTY SOLD UNDER JUDGMENT OR DECREE OF FORECLOSURE--NOTICE AND HEARING--REDEMPTION AMOUNT-- PRIORITY OF REDEMPTION RIGHTS.--

A. After sale of real estate pursuant to the order, judgment or decree of foreclosure in the district court, the real estate may be redeemed by the former defendant owner of the real estate or by any junior mortgagee or other junior lienholder whose rights were judicially determined in the foreclosure proceeding:

(1) by paying to the purchaser, at any time within nine months from the date of sale, the amount paid at the sale, with interest from the date of sale at the rate of ten percent a year, together with all taxes, interest and penalties thereon, and all payments made to satisfy in whole or in part any prior lien or mortgage not foreclosed, paid by the purchaser after the date of sale, with interest on the taxes, interest, penalties and payments made on liens or mortgages at the rate of ten percent a year from the date of payment; or

(2) by filing a petition for redemption in the pending foreclosure case in the district court in which the order, judgment or decree of foreclosure was entered and by making a deposit of the amount set forth in Paragraph (1) of this subsection in cash in the office of the clerk of that district court, at any time within nine months from the date of sale. Copies of the petition for redemption shall be served upon the purchaser of the real estate at the judicial foreclosure sale and upon all parties who appeared in the judicial foreclosure case; and

(3) the former defendant owner shall have the first priority to redeem the real estate. If the former defendant owner does not redeem the real estate as provided in this subsection, each junior mortgagee or junior lienholder shall have a right to redeem the real estate. The order of priority of such redemption rights shall be the same priority as the underlying mortgages or liens, as set forth in the court order, judgment or decree of foreclosure or as otherwise determined by the court. All redemptions must be made within the time periods set forth in Paragraphs (1) and (2) of this subsection.

B. The purchaser of real estate at a foreclosure sale, upon being served with the petition for redemption of the property, shall answer the petition within thirty days after service of the petition.

C. The hearing shall be governed by the rules of civil procedure and shall be set upon the earlier of the filing of a redemption by the former defendant owner or the expiration of the period for filing a redemption. At the hearing, the judge shall determine the amount of money necessary for the redemption, which shall include the money paid at the sale and all taxes, interest, penalties and payments made in satisfaction of liens, mortgages and encumbrances. If more than one redemption is filed, the court shall also determine which redemption has priority pursuant to Subsection A of this section and which party is therefore entitled to redeem the property. At the conclusion of the

hearing, the district court may order the clerk of the court to issue the certificate of redemption upon such terms and conditions as it deems just.

D. As used in this section, the terms "owner", "junior mortgagee", "junior lienholder" and "purchaser" include their respective personal representatives, heirs, successors and assigns.

E. For the purpose of this section, "date of sale" means the date the district court order confirming the special master's report is filed in the office of the clerk of the court.

F. The nine-month redemption period provided in this section is subject to modification pursuant to the provisions of Section 39-5-19 NMSA 1978.

G. A trustee's sale pursuant to a power of sale in a deed of trust as provided in the Deed of Trust Act is not a sale of real estate pursuant to a judgment or decree of a court. A redemption after a trustee's sale is governed by the Deed of Trust Act."

## **Chapter 156 Section 2 Laws 2007**

Section 2. Section 48-10-11 NMSA 1978 (being Laws 1987, Chapter 61, Section 11, as amended) is amended to read:

"48-10-11. NOTICE OF TRUSTEE'S SALE.--

A. The trustee shall give written notice of the time and place of sale, legally describing the trust real estate to be sold, by each of the following methods:

(1) publication of the notice as provided by law for foreclosure of mortgages on real estate;

(2) recording of the notice in the office of the clerk of each county in which the trust real estate is situated; and

(3) giving notice as provided in Section 48-10-12 NMSA 1978 to the extent applicable.

B. The sale shall be held at the time and place designated in the notice of sale on a day other than a Saturday, Sunday or legal holiday and at the time provided by law for the foreclosure sale of real estate under real estate mortgages on the front steps of the courthouse of the county in which the trust real estate is located. If the trust real estate is located in more than one county, the sale may be held in any county in which part of the trust real estate is located.

C. The notice of sale shall contain the street address, if any, or identifiable location as well as the legal description of the trust real estate. Failure to accurately describe within the notice either the street address or the identifiable location of the trust

real estate to be sold shall not be grounds for invalidating the sale if the correct legal description of the trust real estate to be sold was contained in the notice of sale. The notice of sale shall be sufficient if made in substantially the following form:

"NOTICE OF TRUSTEE'S SALE

The following legally described trust real estate will be sold, pursuant to the power of sale as provided in the deed of trust recorded in book \_\_\_\_\_ at page \_\_\_\_\_, \_\_\_\_\_ County, New Mexico, records, at public auction to the highest bidder on the front steps of the county courthouse in \_\_\_\_\_ County, New Mexico, in or near \_\_\_\_\_, New Mexico, on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_m. of that that day: \_\_\_\_\_ (street address, if any, or identifiable location of trust real estate and legal description of trust real estate)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

(Name of Trustor)

(Name of Trustee)

\_\_\_\_\_

Signature

(Here add Acknowledgment)."."

**Chapter 156 Section 3 Laws 2007**

Section 3. Section 48-10-13 NMSA 1978 (being Laws 1987, Chapter 61, Section 13, as amended) is amended to read:

"48-10-13. SALE BY PUBLIC AUCTION--POSTPONEMENT OF SALE.--

A. On the date and at the time and place designated in the notice of sale, the trustee shall sell the trust real estate at public auction for cash to the highest bidder. To determine the highest bidder, the trustor or beneficiary present at the sale may suggest the then existing and legally described and established lots, blocks, tracts or parcels of the trust real estate in which the trust real estate may be sold. The trustee shall ascertain all such suggestions, shall conditionally sell the trust real estate under each suggestion and, in addition, shall sell the trust real estate as a whole. The trustee shall determine which conditional sale results in the highest total price bid for all of the trust real estate. The lawyer for the trustee may conduct the sale and may act at the sale as the auctioneer for the trustee. Any person, including the trustee or beneficiary, may bid at the sale. Only the beneficiary may make a credit bid, instead of cash, at the sale. A

junior encumbrancer may bid the amount or value of the obligation secured by the lien, mortgage, encumbrance or real estate contract, as the case may be, owed to the junior encumbrancer, less the amount or value of any prior deeds of trust, mortgages, liens, encumbrances or real estate contracts, if any, instead of cash, at the sale. In appropriate circumstances, the trustee may sell the trust real estate subject to prior deeds of trust, mortgages, liens, encumbrances or real estate contracts that are not being foreclosed. Every bid shall be deemed an irrevocable offer until the sale is completed and the sale shall not be deemed completed until the purchaser pays the price bid in immediately collectible or available federal funds. If the purchaser fails to pay the amount bid by the purchaser for the trust real estate struck off to the purchaser at the sale as provided in the Deed of Trust Act, the trustee may accept the next highest bid or proceed with the sale of the trust real estate to the highest bidder. The person who fails to make the payment shall be liable to any person who suffers loss or expenses, including reasonable attorney fees actually incurred by the trustee and beneficiary occasioned by the failure, and the trustee may subsequently in any postponed or continued sale of the trust real estate reject any bid of the person failing to pay the amount bid.

B. The person conducting the sale may, for the purpose of verifying the proper amount to be paid or the availability of immediately collectible federal funds, postpone or continue the sale for a reasonable period by giving notice of the new time by public declaration at the time and place last appointed for the sale. No other notice of the postponed or continued sale is required."

## **Chapter 156 Section 4 Laws 2007**

Section 4. Section 48-10-14 NMSA 1978 (being Laws 1987, Chapter 61, Section 14) is amended to read:

### **"48-10-14. PAYMENT OF BID--TRUSTEE'S DEED.--**

A. The purchaser at the sale, other than the beneficiary or the beneficiary's personal representatives, successors or assigns, to the extent of the credit bid of the purchaser, shall immediately pay the price bid. Upon receipt of payment of the price bid by the trustee in collected federal funds, the trustee shall execute and deliver the trustee's deed to the purchaser. The trustee's deed shall raise the presumption of compliance with the requirements of the Deed of Trust Act relating to the exercise of the power of sale and the sale of the trust real estate, including recording, mailing, publishing and posting of notice of sale and the conduct of sale, in favor of subsequent purchasers, mortgagees or encumbrancers for value and without actual notice.

B. The trustee's deed shall operate to convey to the purchaser the title, interest and claim of the trustee, the trustor, the beneficiary, their respective successors in interest and of all persons claiming the trust real estate sold by or through them, including all interest or claim in the trust real estate acquired after the recording of the deed of trust and before delivery of the trustee's deed. The conveyance shall be clear of

the interests of junior encumbrancers in the trust real estate whose interests have been effectively foreclosed by the proceeding."

## **Chapter 156 Section 5 Laws 2007**

Section 5. Section 48-10-16 NMSA 1978 (being Laws 2006, Chapter 32, Section 6) is amended to read:

"48-10-16. REDEMPTION.--

A. Except as otherwise provided in Subsection E of this section, the redemption period after a trustee's sale shall be nine months, or the period provided in the deed of trust, whichever is the lesser period, and shall begin to run from the date of the trustee's sale. In the deed of trust, the parties may shorten the redemption period to not less than one month.

B. After the sale of trust real estate pursuant to Section 48-10-13 NMSA 1978, the trust real estate may be redeemed by the trustor or any junior encumbrancer:

(1) by paying to the purchaser at any time within the redemption period, the amount paid at the sale, with interest from the date of sale at the rate of ten percent a year, together with all taxes, interest and penalties thereon, and all payments made to satisfy in whole or in part any prior lien or mortgage not foreclosed, paid by the purchaser after the date of sale, with interest on the taxes, interest, penalties and payments made on liens or mortgages at the rate of ten percent a year from the date of payment; or

(2) by filing a petition for redemption in the district court in the county where the trustee's sale was held and by making a deposit of the amount set forth in Paragraph (1) of this subsection in cash in the office of the clerk of that district court at any time within the redemption period. Copies of the petition for redemption shall be served upon the purchaser of real estate under a trustee's sale; and

(3) the trustor shall have the first priority to redeem the real estate sold under a trustee's sale. If the trustor does not redeem the real estate as provided in this section, each junior encumbrancer shall have a right to redeem the real estate. The order of priority of such redemption rights shall be the same priority as the underlying junior encumbrances, as agreed by the parties or as otherwise determined by the court. All redemptions must be made within the redemption period.

C. The purchaser of real estate under a trustee's sale, upon being served with the petition for redemption of the property, shall answer the petition within thirty days after service of the petition.

D. The hearing shall be governed by the rules of civil procedure. After the case is filed, the hearing shall be set upon the earlier of the filing of a petition for redemption by

the trustor or the expiration of the redemption period. At the hearing, the judge shall determine the amount of money necessary for the redemption, which shall include the money paid at the sale and all taxes, interest, penalties and payments made in satisfaction of liens, mortgages and encumbrances. If more than one redemption is filed, the court shall also determine which redemption has priority pursuant to the provisions of Subsection B of this section and which party is therefore entitled to redeem the property. At the conclusion of the hearing, the district court may order the clerk of the court to issue the certificate of redemption upon such terms and conditions as the district court deems just.

E. A junior encumbrancer who does not have actual notice or knowledge of the trustee's sale and who has been otherwise omitted from the trustee's sale proceeding shall be entitled to redeem the trust real estate by petitioning the district court in the county where the trustee's sale was held and making a deposit of the amount set forth in Paragraph (1) of Subsection B of this section. The action shall proceed as provided in Subsections C and D of this section. The purchaser of the trust real estate at the trustee's sale may petition the district court to terminate the right of redemption of an omitted junior encumbrancer. In any action commenced pursuant to the provisions of this subsection by or against an omitted junior encumbrancer, the redemption period shall be the period provided in Subsection A of this section, except that the redemption period shall begin to run from the date the final judgment is filed in the action, or from such later date as may be ordered by a court having jurisdiction:

(1) if enforcement of a judgment affecting the redemption is stayed on appeal; or

(2) for other good cause shown.

F. As used in this section, the terms "trustor", "beneficiary", "junior encumbrancer" and "purchaser" include their respective personal representatives, heirs, successors and assigns."

## **Chapter 156 Section 6 Laws 2007**

Section 6. Section 48-10-17 NMSA 1978 (being Laws 1987, Chapter 61, Section 17, as amended) is amended to read:

"48-10-17. ACTION TO RECOVER BALANCE AFTER SALE OR FORECLOSURE ON TRUST REAL ESTATE AS PROVIDED IN DEED OF TRUST-- ACTION TO RECOVER BALANCE PROHIBITED ON LOANS SECURED BY LOW-INCOME HOUSEHOLDS.--

A. Except as provided in Subsections D and E of this section, within six years after the date of a trustee's sale of trust real estate under a deed of trust as provided in the Deed of Trust Act, a separate civil action may be commenced to recover a deficiency judgment for the balance due on the contract for which the deed of trust was

given as security. The deficiency judgment shall be for an amount equal to the sum of the total amount owing the beneficiary or the beneficiary's personal representatives, successors or assigns as of the date of the sale, as determined by the court, and, if applicable, the amount owing on all prior mortgages, deeds of trust, liens and encumbrances and real estate contracts with interest less the sale price at the sale by the trustee of the trust real estate. Any deficiency judgment recovered shall include interest on the amount of the deficiency from the date of the sale at the rate provided in the deed of trust or contract, together with any costs of the action.

B. If no action is commenced for a deficiency judgment as provided in Subsection A of this section, the proceeds of the sale, regardless of amount, shall be deemed to be in full satisfaction of the debt and no right to recover a deficiency in any separate civil action shall exist.

C. Except as provided in Subsections D and E of this section, the Deed of Trust Act does not preclude a beneficiary or a trustee or their respective personal representatives, successors or assigns from foreclosing a deed of trust in the same manner provided by law for the foreclosure of mortgages on real estate.

D. A deed of trust may prohibit the recovery of any balance due after the trust real estate is sold at a trustee's sale or after the deed of trust is foreclosed in the manner provided by law for the foreclosure of mortgages on real estate.

E. No deficiency judgment shall be sought or obtained under any deed of trust securing a residential loan made to a low-income household.

F. No deficiency in recovery of any balance due after the sale at a trustee's sale or a judicial foreclosure sale of trust real estate under a deed of trust securing a residential loan made to a low-income household shall be reported to any credit reporting agencies or disclosed to any person other than the trustor or the trustor's personal representatives, unless the disclosure is required by law.

G. For the purposes of Subsections D, E and F of this section:

(1) "low-income household" means a household in which the current annual income is at or below eighty percent of the area median income adjusted for family size as determined by the United States department of housing and urban development and calculated pursuant to the United States department of housing and urban development part 5 guidelines; and

(2) "residential loan" means a loan the primary purpose of which is the purchase or finance of a permanent dwelling located in New Mexico and which is primarily secured by a deed of trust encumbering the dwelling and related trust real estate.

H. The determination of whether a household is a low-income household and whether a loan is a residential loan shall be made as of the time the loan is made on the basis of information obtained during the loan application process."

## **Chapter 156 Section 7 Laws 2007**

Section 7. APPLICABILITY.--

A. The provisions of Laws 2006, Chapter 32 shall apply to deeds of trust executed on or after May 17, 2006.

B. The provisions of this act shall apply to deeds of trust executed on or after the effective date of this act.

## **Chapter 156 Section 8 Laws 2007**

Section 8. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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House Judiciary Committee Substitute

for House Bills 558 and 641

with emergency clause

Approved April 2, 2007

# **LAWS 2007, CHAPTER 157**

AN ACT

RELATING TO WATER; AMENDING A SECTION OF THE NMSA 1978 TO ALLOW APPOINTMENT OF A WATER MASTER ONLY UPON APPLICATION BY A MAJORITY OF WATER RIGHTS OWNERS IN A DISTRICT.

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

## **Chapter 157 Section 1 Laws 2007**

Section 1. Section 72-3-2 NMSA 1978 (being Laws 1907, Chapter 49, Section 14, as amended) is amended to read:

"72-3-2. WATER MASTERS--APPOINTMENT--REMOVAL--DUTIES.--

A. The state engineer shall, upon the written application of a majority of the water rights owners of any district in this state, appoint a water master for such district in the state, who may, for cause, be removed by the state engineer and shall be removed upon a petition of a majority of the water rights owners of the district. The water master shall have immediate charge of the apportionment of waters in the water master's district under the general supervision of the state engineer, and the water master shall so appropriate, regulate and control the waters of the district as will prevent waste. The state engineer may, if in the state engineer's opinion the public safety or interests of water users in any district in the state require it, appoint such water master for temporary or permanent service in such district in the absence of the application above provided for in this article.

B. In instances where the state engineer's appointment of a water master is not in response to a written application of a majority of the water rights owners of a district, the provisions of Section 72-3-4 NMSA 1978 shall not apply."

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House Bill 579, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 158**

### **AN ACT**

RELATING TO CONCEALED HANDGUNS; ALLOWING CONCEALED HANDGUNS IN AN ESTABLISHMENT THAT SELLS ALCOHOLIC BEVERAGES FOR CONSUMPTION OFF THE PREMISES; ALLOWING LAW ENFORCEMENT OFFICERS TO CARRY FIREARMS IN CERTAIN LICENSED LIQUOR ESTABLISHMENTS IN ACCORDANCE WITH THE POLICIES OF THEIR EMPLOYER.

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

### **Chapter 158 Section 1 Laws 2007**

Section 1. Section 30-7-3 NMSA 1978 (being Laws 1975, Chapter 149, Section 1, as amended) is amended to read:

"30-7-3. UNLAWFUL CARRYING OF A FIREARM IN LICENSED LIQUOR ESTABLISHMENTS.--

A. Unlawful carrying of a firearm in an establishment licensed to dispense alcoholic beverages consists of carrying a loaded or unloaded firearm on any premises licensed by the regulation and licensing department for the dispensing of alcoholic beverages except:

(1) by a law enforcement officer in the lawful discharge of the officer's duties;

(2) by a law enforcement officer who is certified pursuant to the Law Enforcement Training Act acting in accordance with the policies of the officer's law enforcement agency;

(3) by the owner, lessee, tenant or operator of the licensed premises or the owner's, lessee's, tenant's or operator's agents, including privately employed security personnel during the performance of their duties;

(4) by a person carrying a concealed handgun who is in possession of a valid concealed handgun license for that gun pursuant to the Concealed Handgun Carry Act; provided that the licensed establishment does not sell alcoholic beverages for consumption on the premises;

(5) by a person in that area of the licensed premises usually and primarily rented on a daily or short-term basis for sleeping or residential occupancy, including hotel or motel rooms;

(6) by a person on that area of a licensed premises primarily used for vehicular traffic or parking; or

(7) for the purpose of temporary display, provided that the firearm is:

(a) made completely inoperative before it is carried onto the licensed premises and remains inoperative while it is on the licensed premises; and

(b) under the control of the licensee or an agent of the licensee while the firearm is on the licensed premises.

B. Whoever commits unlawful carrying of a firearm in an establishment licensed to dispense alcoholic beverages is guilty of a fourth degree felony."

## **Chapter 158 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 588, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 159**

## AN ACT

RELATING TO HEALTH; ENACTING THE BONE MARROW AND ORGAN DONOR ACT.

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

### **Chapter 159 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "Bone Marrow and Organ Donor Act".

### **Chapter 159 Section 2 Laws 2007**

Section 2. PUBLIC EDUCATION.--The department of health shall provide information and educational materials to the public regarding bone marrow donation through the national marrow donor program and regarding organ donations. The department shall seek assistance from the national marrow donor program to establish a system to distribute materials, ensure that the materials are updated periodically, fully disclose the risks involved in donating bone marrow and address the education and recruitment of minority populations.

The department shall establish a system to distribute information and educational materials regarding organ donations and ensure that the materials are updated periodically, fully disclose the risks of donating an organ and address the education and recruitment of minority populations.

### **Chapter 159 Section 3 Laws 2007**

Section 3. STATE EMPLOYEE LEAVE.--

A. The person in charge of a state agency may grant a leave of absence, not to exceed twenty days, to a state agency employee for the purpose of donating an organ or bone marrow. An employee may request and use donated annual leave or sick leave for the purpose of donating an organ or bone marrow. If an employee requests donations of sick leave or annual leave but does not receive the full amount of leave needed for the donation of an organ or bone marrow, the person in charge of a state agency may grant a paid leave of absence for the remainder of the needed leave up to the maximum total of twenty workdays. The person in charge of a state agency may require verification by a physician regarding the purpose of the leave requested and information from the physician regarding the length of the leave requested. Any paid leave of absence granted pursuant to this section shall not result in a loss of compensation, seniority, annual leave, sick leave or accrued overtime for which the employee is otherwise eligible.

B. For the purposes of this section, "state agency" means any department, institution, board, bureau, commission, district or committee of government of the state of New Mexico.

## **Chapter 159 Section 4 Laws 2007**

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 590, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 160**

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; ENACTING THE ARTS AND CULTURAL DISTRICT ACT; PROVIDING FOR THE CREATION OF ARTS AND CULTURAL DISTRICTS; PROVIDING FOR CULTURAL FACILITIES; CREATING TAX CREDITS FOR PRESERVATION OF CULTURAL PROPERTIES; MAKING AN APPROPRIATION.

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

## **Chapter 160 Section 1 Laws 2007**

Section 1. SHORT TITLE.--Sections 1 through 7 of this act may be cited as the "Arts and Cultural District Act".

## **Chapter 160 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the Arts and Cultural District Act:

A. "arts and cultural district" means a developed district of public and private uses designated by the commission or a municipality;

B. "commission" means the New Mexico arts commission; and

C. "coordinator" means the person responsible for coordinating the main street program pursuant to Subsection B of Section 3-60B-3 NMSA 1978.

## **Chapter 160 Section 3 Laws 2007**

### Section 3. MAIN STREET PROGRAM COORDINATOR--DUTIES.--

#### A. The coordinator shall:

(1) review and approve or reject applications from municipalities, citizens and nonprofit organizations to designate state-authorized arts and cultural districts pursuant to the Arts and Cultural District Act;

(2) administer and promote an application process for the designation of state-authorized arts and cultural districts;

(3) provide financial grants or contracts for development of a state-authorized arts and cultural district, including planning, designing, construction and renovation costs; and

(4) develop policies and standards for the designation of state-authorized arts and cultural districts and for the declassification should a state-authorized arts and cultural district not comply with the policies and standards established by the commission as set forth in an approved application.

B. The coordinator shall require annual reports from each state-authorized arts and cultural district for purposes of reviewing the activities of that district, including the compliance of the district with the policies and standards of the commission and with the conditions of an approved application.

## **Chapter 160 Section 4 Laws 2007**

### Section 4. ARTS AND CULTURAL DISTRICTS--CREATION.--

A. A state-authorized arts and cultural district may be created by the municipality in which the proposed arts and cultural district will be located only if the proposed district is approved by the commission.

B. A municipally authorized arts and cultural district may be created by a municipality with a population greater than fifty thousand in which the proposed arts and cultural district will be located if the proposed district meets the criteria set forth in Subsection C of this section.

#### C. An arts and cultural district shall:

(1) be in a geographically contiguous area that ranges in size from a portion of a municipality to a regional district with a special coherence;

(2) be distinguished by physical and cultural resources that play a vital role in the life and development, including economic and cultural development, of a community;

(3) focus on a cultural compound, a major art institution, art and entertainment businesses, an area with arts and cultural activities or cultural or artisan production; and

(4) be engaged in promotion, preservation and educational aspects of the arts and culture of that locale and contribute to the public through interpretive, educational and recreational uses.

## **Chapter 160 Section 5 Laws 2007**

### **Section 5. STATE-AUTHORIZED DISTRICTS.--**

A. The coordinator shall review applications submitted by municipalities, citizens or nonprofit organizations for the purpose of designating an arts and cultural district and make a recommendation to the commission for action on each application. Citizens and nonprofit organizations that submit an application shall include a formal endorsement of the application by the municipal government in which the proposed district is to be located.

B. After reviewing an application for the designation of an arts and cultural district, the commission shall approve or reject the application or send it back to the applicant with a request for changes or additional information.

C. The commission shall designate no more than five arts and cultural districts in a calendar year. Rejected applicants may re-apply without prejudice.

D. If the commission approves an application for the designation of an arts and cultural district, it shall notify the applicant in writing and shall specify the terms and conditions of the commission's approval, including the terms and conditions set forth in the application and as modified by written agreement between the applicant and the commission.

E. After the commission approves an application for the designation of a state-authorized arts and cultural district, the applicable municipality may pass a local ordinance to establish the state-authorized arts and cultural district pursuant to the terms and conditions specified in the approved application. Municipalities may administer arts and cultural districts through a newly created local commission with a specific mission to oversee the district subject to review by the municipality.

## **Chapter 160 Section 6 Laws 2007**

Section 6. MUNICIPALLY AUTHORIZED DISTRICTS.--Municipalities with a population greater than fifty thousand that choose to authorize their own districts shall pass a local ordinance stating minimum requirements for establishing the arts and

cultural district, and any municipally authorized arts and cultural district shall meet the criteria contained in Subsection C of Section 4 of the Arts and Cultural District Act.

## **Chapter 160 Section 7 Laws 2007**

Section 7. ARTS AND CULTURAL DISTRICT FUND ESTABLISHED.-- The "arts and cultural district fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations and bequests. The fund shall be administered by the cultural affairs department, and money in the fund is appropriated to the cultural affairs department to carry out the provisions of the Arts and Cultural District 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 cultural affairs or the secretary's authorized representative.

## **Chapter 160 Section 8 Laws 2007**

Section 8. Section 5-10-2 NMSA 1978 (being Laws 1993, Chapter 297, Section 2) is amended to read:

"5-10-2. FINDINGS AND PURPOSE OF ACT.--

A. The legislature finds that:

(1) development of the New Mexico economy is vital to the well-being of the state and its residents;

(2) it is difficult for municipalities and counties in New Mexico to attract and retain businesses capable of enhancing the local and state economy without the resources necessary to compete with other states and locales;

(3) municipalities and counties may need to be able to provide land, buildings and infrastructure as a tool for basic business growth and the introduction of basic business ventures into the state;

(4) it is in the best interest of the state, municipalities and counties to encourage local or regional solutions to economic development; and

(5) the access to public resources needs to be carefully controlled and managed for the continued and future benefit of New Mexico citizens.

B. The purpose of the Local Economic Development Act is to implement the provisions of the 1994 constitutional amendment to Article 9, Section 14 of the constitution of New Mexico to allow public support of economic development to foster, promote and enhance local economic development efforts while continuing to protect against the unauthorized use of public money and other public resources. Further, the purpose of that act is to allow municipalities and counties to enter into joint powers

agreements to plan and support regional economic development projects, including investments in arts and cultural districts created pursuant to the Arts and Cultural District Act."

## **Chapter 160 Section 9 Laws 2007**

Section 9. 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) or (6) of this subsection, not including any enterprise for sale of goods or commodities at retail or for distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

(3) a business in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in Paragraph (5) 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; and

(8) a cultural facility; and

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."

## **Chapter 160 Section 10 Laws 2007**

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

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

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

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

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

(2) revenue generated through the imposition of the municipal infrastructure gross receipts tax pursuant to the Municipal Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; provided that no more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

(3) revenue generated through the imposition of a county infrastructure gross receipts tax pursuant to the County Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; provided that no more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

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

(5) the proceeds of a revenue bond issue to which county infrastructure gross receipts tax revenue is pledged; or

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

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

D. In order to expend money from an economic development fund for arts and cultural district purposes or cultural facilities, the governing body of a municipality or county that has imposed a municipal or county local option infrastructure gross receipts tax for furthering or implementing economic development plans and projects, as defined in the Local Economic Development Act, or projects, as defined in the Statewide Economic Development Finance Act, by referendum of the majority of the voters voting on the question approving the ordinance imposing the municipal or county infrastructure gross receipts tax before June 30, 2007 shall be required to adopt a resolution. The resolution shall call for an election to approve arts and cultural districts as a qualifying purpose and cultural facilities as a qualifying entity before any revenue generated by the municipal or county local option gross receipts tax for furthering or implementing economic development plans and projects, as defined in the Local Economic Development Act, or projects, as defined in the Statewide Economic Development Finance Act, can be expended from the economic development fund for arts and cultural district purposes or cultural facilities.

E. The governing body shall adopt a resolution calling for an election within seventy-

five days of the date the ordinance is adopted on the question of approving arts and cultural districts as a qualifying purpose and cultural facilities as a qualifying entity eligible to utilize revenue generated by the Municipal Local Option Gross Receipts Taxes Act or the County Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act.

F. The question shall be submitted to the voters of the municipality or county as a separate question at a regular municipal or county election or at a special election called for that purpose by the governing body. A special municipal election shall be called, conducted and canvassed as provided in the Municipal Election Code. A special county election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections.

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

after the expiration of three months from the date of the adopted ordinance. The ordinance shall include the effective date."

## **Chapter 160 Section 11 Laws 2007**

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

"5-10-5. ECONOMIC DEVELOPMENT DEPARTMENT--TECHNICAL ASSISTANCE.--At the request of a local or regional government, the department shall provide technical assistance in the development of an economic development plan or economic development project or technical assistance to cultural facilities with respect to economic development projects."

## **Chapter 160 Section 12 Laws 2007**

Section 12. Section 5-10-6 NMSA 1978 (being Laws 1993, Chapter 297, Section 6, as amended) is amended to read:

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

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

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

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

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

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

(4) describe the manner in which a qualifying entity may submit an economic development project application, including the type of information required from the qualifying entity sufficient to ensure its solvency and ability to perform its contractual obligations, its commitment to remain in the community and its commitment to the stated economic development goals of the local or regional government;

(5) describe the process the local or regional government will use to verify the information submitted on an economic development project application;

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

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

(8) identify other resources the local or regional government is prepared to offer qualifying entities, including specific land or buildings it is willing to lease, sell or grant a qualifying entity; community infrastructure it is willing to build, extend or expand, including roads, water, sewers or other utilities; and professional services contracts by local or regional governments necessary to provide these resources;

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

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

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

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

## **Chapter 160 Section 13 Laws 2007**

Section 13. Section 5-10-9 NMSA 1978 (being Laws 1993, Chapter 297, Section 9) is amended to read:

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

A. The local or regional government shall review each project application, and projects shall be approved by ordinance.

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

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

## **Chapter 160 Section 14 Laws 2007**

Section 14. Section 7-2-18.2 NMSA 1978 (being Laws 1984, Chapter 34, Section 1) is amended to read:

"7-2-18.2. CREDIT FOR PRESERVATION OF CULTURAL PROPERTY--REFUND.--

A. Tax credits for the preservation of cultural property may be claimed as follows:

(1) To encourage the restoration, rehabilitation and preservation of cultural properties, a taxpayer who files an individual New Mexico income tax return and who is not a dependent of another individual and who is the owner of a cultural property listed on the official New Mexico register of cultural properties, with the taxpayer's consent, may claim a credit not to exceed a maximum aggregate of twenty-five thousand dollars (\$25,000) in an amount equal to one-half of the cost of restoration, rehabilitation or preservation of a cultural property listed on the official New Mexico register; or

(2) if a cultural property, whose owner may otherwise claim the credit set forth in Paragraph (1) of this subsection is also located within an arts and cultural district certified by the state or a municipality pursuant to the Arts and Cultural District Act, the owner of that cultural property may claim a credit not to exceed fifty thousand dollars (\$50,000), including any credit claimed pursuant to Paragraph (1) of this subsection, in an amount equal to one-half of the cost of restoration, rehabilitation or preservation of the cultural property.

B. The taxpayer may claim the credit if:

(1) the taxpayer submitted a plan and specifications for restoration, rehabilitation or preservation to the committee and received approval from the committee for the plan and specifications prior to commencement of the restoration, rehabilitation or preservation;

(2) the taxpayer received certification from the committee after completing the restoration, rehabilitation or preservation, or committee-approved phase, that it conformed to the plan and specifications and preserved and maintained those qualities of the property that made it eligible for inclusion in the official register; and

(3) the project is completed within twenty-four months of the date the project is approved by the committee in accordance with Paragraph (1) of this subsection.

C. A taxpayer may claim the credit provided in this section for each taxable year in which restoration, rehabilitation or preservation is carried out. Except as provided in Subsection F of this section, claims for the credit provided in this section shall be limited to three consecutive years, and the maximum aggregate credit allowable shall not exceed twenty-five thousand dollars (\$25,000) if governed by Paragraph (1) of Subsection A of this section, or fifty thousand dollars (\$50,000) if governed by Paragraph (2) of Subsection A of this section, for any single restoration, rehabilitation or preservation project for any cultural property listed on the official New Mexico register certified by the committee.

D. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the credit that would have been allowed on a joint return.

E. A taxpayer who otherwise qualifies and claims a credit on a restoration, rehabilitation or preservation project on property owned by a partnership of which the taxpayer is a member may claim a credit only in proportion to the taxpayer's interest in the partnership. The total credit claimed by all members of the partnership shall not exceed twenty-five thousand dollars (\$25,000) in the aggregate if governed by Paragraph (1) of Subsection A of this section, or fifty thousand dollars (\$50,000) in the aggregate if governed by Paragraph (2) of Subsection A of this section, for any single restoration, rehabilitation or preservation project for any cultural property listed on the official New Mexico register certified by the committee.

F. The credit provided in this section may only be deducted from the taxpayer's income tax liability. Any portion of the maximum tax credit provided by this section that remains unused at the end of the taxpayer's taxable year may be carried forward for four consecutive years; provided, however, the total tax credits claimed under this section shall not exceed twenty-five thousand dollars (\$25,000) if governed by Paragraph (1) of Subsection A of this section, or fifty thousand dollars (\$50,000) if governed by Paragraph (2) of Subsection A of this section, for any single restoration,

preservation or rehabilitation project for any cultural property listed on the official New Mexico register.

G. The historic preservation division shall promulgate regulations for the implementation of Subsection B of this section.

H. As used in this section:

(1) "committee" means the cultural properties review committee created in Section 18-6-4 NMSA 1978; and

(2) "historic preservation division" means the historic preservation division of the cultural affairs department created in Section 18-6-8 NMSA 1978."

## **Chapter 160 Section 15 Laws 2007**

Section 15. Section 7-2A-8.6 NMSA 1978 (being Laws 1984, Chapter 34, Section 2, as amended) is amended to read:

"7-2A-8.6. CREDIT FOR PRESERVATION OF CULTURAL PROPERTY--  
CORPORATE INCOME TAX CREDIT.--

A. Tax credits for the preservation of cultural property may be claimed as follows:

(1) to encourage the restoration, rehabilitation and preservation of cultural properties, a taxpayer that files a corporate income tax return and that is the owner of a cultural property listed on the official New Mexico register of cultural properties, with its consent, may claim a credit not to exceed twenty-five thousand dollars (\$25,000) in an amount equal to one-half of the cost of restoration, rehabilitation or preservation of the cultural property; or

(2) if a cultural property, whose owner may otherwise claim the credit set forth in Paragraph (1) of this subsection is also located within an arts and cultural district designated by the state or a municipality pursuant to the Arts and Cultural District Act, the owner of that cultural property may claim a credit not to exceed fifty thousand dollars (\$50,000), including any credit claimed pursuant to Paragraph (1) of this subsection, in an amount equal to one-half of the cost of restoration, rehabilitation or preservation of the cultural property.

B. The taxpayer may claim the credit if:

(1) it submitted a plan and specifications for restoration, rehabilitation or preservation to the committee and received approval from the committee for the plan and specifications prior to commencement of the restoration, rehabilitation or preservation;

(2) it received certification from the committee after completing the restoration, rehabilitation or preservation, or committee-approved phase, that it conformed to the plan and specifications and preserved and maintained those qualities of the property that made it eligible for inclusion in the official register; and

(3) the project is completed within twenty-four months of the date the project is approved by the committee in accordance with Paragraph (1) of this subsection.

C. A taxpayer may claim the credit provided in this section for each taxable year in which preservation, restoration or rehabilitation is carried out. Claims for the credit provided in this section shall be limited to three consecutive years, and the maximum aggregate credit allowable shall not exceed twenty-five thousand dollars (\$25,000) if governed by Paragraph (1) of Subsection A of this section, or fifty thousand dollars (\$50,000) if governed by Paragraph (2) of Subsection A of this section, for any single restoration, rehabilitation or preservation project certified by the committee for any cultural property listed on the official New Mexico register. No single project may extend beyond a period of more than two years.

D. A taxpayer who otherwise qualifies and claims a credit on a restoration, rehabilitation or preservation project on property owned by a partnership of which the taxpayer is a member may claim a credit only in proportion to the taxpayer's interest in the partnership. The total credit claimed by all members of the partnership shall not exceed twenty-five thousand dollars (\$25,000) if governed by Paragraph (1) of Subsection A of this section, or fifty thousand dollars (\$50,000) if governed by Paragraph (2) of Subsection A of this section, in the aggregate for any single restoration, preservation or rehabilitation project for any cultural property listed on the official New Mexico register approved by the committee.

E. The credit provided in this section may only be deducted from the taxpayer's corporate income tax liability. Any portion of the maximum tax credit provided by this section that remains unused at the end of the taxpayer's taxable year may be carried forward for four consecutive years; provided, however, the total tax credits claimed under this section shall not exceed twenty-five thousand dollars (\$25,000) if governed by Paragraph (1) of Subsection A of this section, or fifty thousand dollars (\$50,000) if governed by Paragraph (2) of Subsection A of this section, for any single restoration, rehabilitation or preservation project for any cultural property listed on the official New Mexico register.

F. The historic preservation division shall promulgate regulations for the implementation of this section.

G. As used in this section:

(1) "committee" means the cultural properties review committee created in Section 18-6-4 NMSA 1978; and

(2) "historic preservation division" means the historic preservation division of the cultural affairs department created in Section 18-6-8 NMSA 1978."

### **Chapter 160 Section 16 Laws 2007**

Section 16. APPLICABILITY.--The provisions of this act shall apply to taxable years beginning on or after January 1, 2009.

### **Chapter 160 Section 17 Laws 2007**

Section 17. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Taxation and Revenue Committee

Substitute for House Bill 606, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 161**

AN ACT

RELATING TO PUBLIC REGULATIONS; CREATING THE FIRE MARSHAL DIVISION IN THE PUBLIC REGULATION COMMISSION.

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

### **Chapter 161 Section 1 Laws 2007**

Section 1. Section 8-8-1 NMSA 1978 (being Laws 1998, Chapter 108, Section 1) is amended to read:

"8-8-1. SHORT TITLE.--Chapter 8, Article 8 NMSA 1978 may be cited as the "Public Regulation Commission Act"."

### **Chapter 161 Section 2 Laws 2007**

Section 2. Section 8-8-6 NMSA 1978 (being Laws 1998, Chapter 108, Section 6) is amended to read:

"8-8-6. COMMISSION--DIVISIONS.--The commission shall include the following organizational units:

- A. the administrative services division;
- B. the consumer relations division;
- C. the insurance division;
- D. the legal division;
- E. the transportation division;
- F. the utility division; and
- G. the fire marshal division."

### **Chapter 161 Section 3 Laws 2007**

Section 3. Section 8-8-9 NMSA 1978 (being Laws 1998, Chapter 108, Section 9) is amended to read:

"8-8-9. INSURANCE DIVISION.--

A. The director of the insurance division is the "superintendent of insurance" and shall have all the powers and duties prescribed to the director in the New Mexico Insurance Code.

B. The insurance division shall consist of such bureaus as the superintendent of insurance determines for the orderly conduct of business."

### **Chapter 161 Section 4 Laws 2007**

Section 4. A new section of the Public Regulation Commission Act is enacted to read:

"FIRE MARSHAL DIVISION.--The fire marshal division includes the following:

- A. the firefighter training academy bureau;
- B. the fire service support bureau;
- C. the fire investigations bureau; and
- D. the fire code enforcement bureau."

### **Chapter 161 Section 5 Laws 2007**

Section 5. Section 59A-52-1 NMSA 1978 (being Laws 1984, Chapter 127, Section 947, as amended) is amended to read:

"59A-52-1. STATE FIRE MARSHAL CREATED.--The position of "state fire marshal" is created as the director of the fire marshal division under the public regulation commission."

### **Chapter 161 Section 6 Laws 2007**

Section 6. Section 59A-52-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 949, as amended) is amended to read:

"59A-52-3. DEPUTY STATE FIRE MARSHAL AND OTHER EMPLOYEES--QUALIFICATIONS OF DEPUTY.--The state fire marshal may employ, with the consent of the chief of staff of the public regulation commission, deputy state fire marshals and other employees to assist in the execution of the marshal's duties."

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House Bill 622

Approved April 2, 2007

## **LAWS 2007, CHAPTER 162**

AN ACT

RELATING TO CHILDREN; CREATING A NEW CHILDREN'S MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES ACT THAT PROGRESSES FROM LEAST TO MOST RESTRICTIVE SITUATIONS; REPEALING THE CHILDREN'S MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES ACT.

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

### **Chapter 162 Section 1 Laws 2007**

Section 1. A new section of the Children's Code is enacted to read:

"SHORT TITLE.--This act may be cited as the "Children's Mental Health and Developmental Disabilities Act"."

### **Chapter 162 Section 2 Laws 2007**

Section 2. A new section of the Children's Code is enacted to read:

"PURPOSES.--The purposes of the Children's Mental Health and Developmental Disabilities Act are to:

- A. provide children with access to appropriate assessments, services and treatment;
- B. provide children access to a continuum of services to address their habilitation and treatment needs;
- C. provide children with access to services for identification, prevention and intervention for developmental and mental health needs;
- D. promote delivery of services in a culturally appropriate, responsive and respectful manner;
- E. protect the substantive and procedural rights of children regardless of service setting; and
- F. encourage support for family as critical members of the treatment or habilitation team whenever clinically appropriate."

### **Chapter 162 Section 3 Laws 2007**

Section 3. A new section of the Children's Code is enacted to read:

"SCOPE.--The provisions of the Children's Mental Health and Developmental Disabilities Act shall apply to all children in New Mexico except as otherwise set forth in the Children's Code."

### **Chapter 162 Section 4 Laws 2007**

Section 4. A new section of the Children's Code is enacted to read:

"DEFINITIONS.--As used in the Children's Mental Health and Developmental Disabilities Act:

- A. "aversive intervention" means any device or intervention, consequences or procedure intended to cause pain or unpleasant sensations, including interventions causing physical pain, tissue damage, physical illness or injury; electric shock; isolation; mechanical restraint; forced exercise; withholding of food, water or sleep; humiliation; water mist; noxious taste, smell or skin agents; and over- correction;
- B. "behavioral health services" means a comprehensive array of professional and ancillary services for the treatment, habilitation, prevention and identification of mental illnesses, behavioral symptoms associated with developmental disabilities, substance abuse disorders and trauma spectrum disorders;

C. "capacity" means a child's ability to:

(1) understand and appreciate the nature and consequences of proposed health care, including its significant benefits, risks and alternatives to proposed health care; and

(2) make and communicate an informed health care decision;

D. "chemical restraint" means a medication that is not standard treatment for the patient's medical or psychiatric condition that is used to control behavior or to restrict a patient's freedom of movement;

E. "child" means a person who is a minor;

F. "clinician" means a person whose licensure allows the person to make independent clinical decisions, including a physician, licensed psychologist, psychiatric nurse practitioner, licensed independent social worker, licensed marriage and family therapist and licensed professional clinical counselor;

G. "continuum of services" means a comprehensive array of emergency, outpatient, intermediate and inpatient services and care, including screening, early identification, diagnostic evaluation, medical, psychiatric, psychological and social service care, habilitation, education, training, vocational rehabilitation and career counseling;

H. "developmental disability" means a severe chronic disability that:

(1) is attributable to a mental or physical impairment or a combination of mental or physical impairments;

(2) is manifested before a person reaches twenty-two years of age;

(3) is expected to continue indefinitely;

(4) results in substantial functional limitations in three or more of the following areas of major life activities:

(a) self-care;

(b) receptive and expressive language;

(c) learning;

(d) mobility;

(e) self-direction;

(f) capacity for independent living; or

(g) economic self-sufficiency; and

(5) reflects a person's need for a combination and sequence of special, interdisciplinary or other supports and services that are of lifelong or extended duration that are individually planned or coordinated;

I. "evaluation facility" means a community mental health or developmental disability program, a medical facility having psychiatric or developmental disability services available or, if none of the foregoing is reasonably available or appropriate, the office of a licensed physician or a licensed psychologist, any of which shall be capable of performing a mental status examination adequate to determine the need for appropriate treatment, including possible involuntary treatment;

J. "family" means persons with a kinship relationship to a child, including the relationship that exists between a child and a biological or adoptive parent, relative of the child, a step-parent, a godparent, a member of the child's tribe or clan or an adult with whom the child has a significant bond;

K. "habilitation" means services, including behavioral health services based on evaluation of the child, that are aimed at assisting the child to prevent, correct or ameliorate a developmental disability. The purpose of habilitation is to enable the child to attain, maintain or regain maximum functioning or independence. "Habilitation" includes programs of formal, structured education and treatment and rehabilitation services;

L. "individual instruction" means a child's direction concerning a mental health treatment decision for the child, made while the child has capacity and is fourteen years of age or older, which is to be implemented when the child has been determined to lack capacity;

M. "least restrictive means principle" means the conditions of habilitation or treatment for the child, separately and in combination that:

(1) are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives for the child;

(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 child or others from physical injury; and

(3) are conducted at the suitable available facility closest to the child's place of residence;

N. "legal custodian" means a biological or adoptive parent of a child unless legal custody has been vested in a person, department or agency and also includes a person appointed by an unexpired power of attorney;

O. "licensed psychologist" means a person who holds a current license as a psychologist issued by the New Mexico state board of psychologist examiners;

P. "likelihood of serious harm to self" means that it is more likely than not that in the near future a child will attempt to commit suicide or will cause serious bodily harm to the child by violent or other self-destructive means, as evidenced by behavior causing, attempting or threatening such harm, which behavior gives rise to a reasonable fear of such harm from the child;

Q. "likelihood of serious harm to others" means that it is more likely than not that in the near future the child will inflict serious 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 child;

R. "mechanical restraint" means any device or material attached or adjacent to the child's body that restricts freedom of movement or normal access to any portion of the child's body and that the child cannot easily remove but does not include a protective or stabilizing device;

S. "medically necessary services" means clinical and rehabilitative physical, mental or behavioral health services that are:

(1) essential to prevent, diagnose or treat medical conditions or are essential to enable the child to attain, maintain or regain functional capacity;

(2) delivered in the amount, duration, scope and setting that is clinically appropriate to the specific physical, mental and behavioral health care needs of the child;

(3) provided within professionally accepted standards of practice and national guidelines; and

(4) required to meet the physical, mental and behavioral health needs of the child and are not primarily for the convenience of the child, provider or payer;

T. "mental disorder" means a substantial disorder of the child's emotional processes, thought or cognition, not including a developmental disability, that impairs the child's:

(1) functional ability to act in developmentally and age-appropriate ways in any life domain;

- (2) judgment;
- (3) behavior; and
- (4) capacity to recognize reality;

U. "mental health or developmental disabilities professional" means a person who by training or experience is qualified to work with persons with mental disorders or developmental disabilities;

V. "out-of-home treatment or habilitation program" means an out-of-home residential program that provides twenty-four-hour care and supervision to children with the primary purpose of providing treatment or habilitation to children. "Out-of-home treatment or habilitation program" includes, but is not limited to, treatment foster care, group homes and residential treatment centers;

W. "parent" means a biological or adoptive parent of a child whose parental rights have not been terminated;

X. "physical restraint" means the use of physical force without the use of any device or material that restricts the free movement of all or a portion of a child's body, but does not include:

- (1) briefly holding a child in order to calm or comfort the child;
- (2) holding a child's hand or arm to escort the child safely from one area to another; or
- (3) intervening in a physical fight;

Y. "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, supervisory residence or nursing home when the child resides on the premises and where one or more of the following measures is available for use:

- (1) a mechanical device to restrain or restrict the child's movement;
- (2) a secure seclusion area from which the child is unable to exit voluntarily;
- (3) a facility or program designed for the purpose of restricting the child's ability to exit voluntarily; and
- (4) the involuntary emergency administration of psychotropic medication;

Z. "restraint" means the use of a physical, chemical or mechanical restraint;

AA. "seclusion" means the confinement of a child alone in a room from which the child is physically prevented from leaving;

BB. "treatment" means provision of behavioral health services based on evaluation of the child, aimed at assisting the child to prevent, correct or ameliorate a mental disorder. The purpose of treatment is to enable the child to attain, maintain or regain maximum functioning;

CC. "treatment team" means a team consisting of the child, the child's parents unless parental rights have specifically been limited pursuant to an order of a court, legal custodian, guardian ad litem, treatment guardian, clinician and any other professionals involved in treatment of the child, other members of the child's family, if requested by the child, and the child's attorney if requested by the child, unless in the professional judgment of the treating clinician for reasons of safety or therapy one or more members should be excluded from participation in the treatment team; and

DD. "treatment plan" means an individualized plan developed by a treatment team based on assessed strengths and needs of the child and family."

## **Chapter 162 Section 5 Laws 2007**

Section 5. A new section of the Children's Code is enacted to read:

"COMPETENCE.--The fact that a child has received treatment or habilitation services or has been accepted at or admitted to a hospital or institutional facility shall not constitute a sufficient basis for a finding of incompetence or the denial of a right or benefit of any nature that the child would otherwise have."

## **Chapter 162 Section 6 Laws 2007**

Section 6. A new section of the Children's Code is enacted to read:

"RIGHTS RELATED TO TREATMENT AND HABILITATION--SCOPE.--The rights set forth in the Children's Mental Health and Developmental Disabilities Act shall apply to a child who is physically present and receiving treatment or habilitation services in New Mexico. A child who receives treatment or habilitation services shall have rights with respect to such treatment or habilitation, regardless of where services are provided."

## **Chapter 162 Section 7 Laws 2007**

Section 7. A new section of the Children's Code is enacted to read:

"RIGHT TO INDIVIDUALIZED TREATMENT OR HABILITATION SERVICES AND PLAN.--

A. A child receiving mental health or habilitation services shall have the right to prompt treatment and habilitation pursuant to an individualized treatment plan and consistent with the least restrictive means principle.

B. A preliminary treatment plan shall be prepared within seven days of initial provision of mental health or habilitation services.

C. An individualized treatment or habilitation plan shall be prepared within twenty-one days of the provision of mental health or habilitation services.

D. The individualized treatment or habilitation plan shall be developed by the child's treatment team. The child and the child's legal custodian and parent shall, to the maximum extent possible, be involved in the preparation of the child's individualized treatment or habilitation plan.

E. An individualized treatment or habilitation plan shall include:

(1) a statement of the nature of the specific problem and the specific needs of the child;

(2) a statement of the least restrictive conditions necessary to achieve the purposes of treatment or habilitation;

(3) a description of intermediate and long-range goals, with the projected timetable for their attainment;

(4) a statement and rationale for the plan of treatment or habilitation for achieving these intermediate and long-range goals;

(5) specification of staff responsibility and a description of the proposed staff involvement with the child in order to attain these goals;

(6) criteria for release to less restrictive settings for treatment or habilitation, criteria for discharge and a projected date for discharge; and

(7) provision for access to cultural practices and traditional treatments in accordance with the child's assessed needs, and for an Indian child, culturally competent placement, treatment and practices and, after appropriate consent, tribal consultation.

F. A treatment or habilitation plan for a child in an out-of-home treatment or habilitation program shall be based on documented assessments that may include assessments of mental status; intellectual function; psychological status, including the use of psychological testing; psychiatric evaluation and medication; education, vocation, psychosocial assessment, physical status and the child's cultural needs.

G. The child's progress in attaining the goals and objectives set forth in the individualized treatment or habilitation plan shall be monitored and noted in the child's records, and revisions in the plan may be made as circumstances require. The members of the child's treatment team shall be informed of major changes and shall have the opportunity to participate in decisions."

## **Chapter 162 Section 8 Laws 2007**

Section 8. A new section of the Children's Code is enacted to read:

"SPECIAL RULES APPLICABLE TO AVERSIVE INTERVENTION.--

A. An intervention expressly listed in the "aversive intervention" definition in Section 4 of the Children's Mental Health and Developmental Disabilities Act is prohibited.

B. A treatment plan containing an aversive intervention not specifically listed in Section 4 of the Children's Mental Health and Developmental Disabilities Act shall be submitted to the human rights committee of the department of health in advance of a meeting, except in emergency situations. The human rights committee shall review the plan along with the following additional information as available:

- (1) baseline or base rate data;
- (2) review of the child's current situation and environment;
- (3) the child's history, including previous interventions and results;
- (4) the possible adverse effects, if any, of the proposed treatment plan;
- (5) success and failure criteria for discontinuing the proposed aversive intervention; and
- (6) a written evaluation by the clinician proposing the treatment plan or the intervention.

C. The human rights committee of the department of health shall not approve an intervention specifically listed in the definition of "aversive intervention" in Section 4 of the Children's Mental Health and Developmental Disabilities Act.

D. An invitation to participate in the review shall be extended to the child, the child's legal custodian, the clinician and any other mental health or developmental disability professional who has proposed the treatment. A written or oral presentation shall be made to the human rights commission by the mental health or developmental disability professional proposing the treatment.

E. The results of the human rights committee of the department of health review shall be reported to the clinician, the child and the child's legal custodian within three working days.

F. The department shall work in collaboration with the department of health to promulgate rules for implementing a human rights committee pursuant to this section."

## **Chapter 162 Section 9 Laws 2007**

Section 9. A new section of the Children's Code is enacted to read:

"RESTRAINT, GENERALLY.--A child has the right to be free from the use of physical, chemical or mechanical restraint used for the convenience of a caregiver or as a substitute for a planned program for behavior support. However, nothing in this subsection shall prohibit the use of:

A. a protective apparatus needed to protect a child from imminent harm, consistent with the least restrictive means principle;

B. a medical restraint prescribed by a physician or dentist as a health-related protective measure during the conduct of a specific medical, surgical or dental procedure; and

C. appropriate mechanical supports used to achieve proper body position and balance."

## **Chapter 162 Section 10 Laws 2007**

Section 10. A new section of the Children's Code is enacted to read:

"PHYSICAL RESTRAINT AND SECLUSION.--

A. In a mental health or developmental disability treatment or habilitation setting, physical restraint and seclusion shall not be used unless such use is necessary to protect a child or another from imminent, serious physical harm or unless another less intrusive, nonphysical intervention has failed or been determined inappropriate.

B. A treatment and habilitation program shall provide a child and the child's legal custodian with a copy of the policies and procedures governing the use of restraint and seclusion.

C. When a child is in a restraint or in seclusion, the mental health or developmental disabilities professional shall document:

(1) any less intrusive interventions that were attempted or determined to be inappropriate prior to the incident;

(2) the precipitating event immediately preceding the behavior that prompted the use of restraint or seclusion;

(3) the behavior that prompted the use of a restraint or seclusion;

(4) the names of the mental health or developmental disabilities professional who observed the behavior that prompted the use of restraint or seclusion;

(5) the names of the staff members implementing and monitoring the use of restraint or seclusion; and

(6) a description of the restraint or seclusion incident, including the type and length of the use of restraint or seclusion, the child's behavior during and reaction to the restraint or seclusion and the name of the supervisor informed of the use of restraint or seclusion.

D. The documentation shall be maintained in the child's medical, mental health or educational record and available for inspection by the child's legal custodian.

E. The child's legal custodian shall be notified immediately after each time restraint or seclusion is used. If the legal custodian is not reasonably available, the mental health or developmental disability professional shall document all attempts to notify the legal custodian and shall send written notification within one business day.

F. After an incident of restraint or seclusion, the mental health or developmental disabilities professional involved in the incident shall conduct a debriefing with the child in which the precipitating event, unsafe behavior and preventive measures are reviewed with the intent of reducing or eliminating the need for future restraint or seclusion. The debriefing shall be documented in the child's record and incorporated into the next treatment plan review.

G. As promptly as possible, but under no circumstances later than five calendar days after a child has been subject to restraint or seclusion, the treatment team shall meet to review the incident and revise the treatment plan as appropriate. The treatment team shall identify any known triggers to the behavior that necessitated the use of restraint or seclusion and recommend preventive measures that may be used to calm the child and eliminate the need for restraint or seclusion. In a subsequent review of the treatment plan, the treatment team shall review the success or failure of preventive measures and revise the plan, if necessary, based on such review.

H. Physical restraint shall be applied only by a mental health or developmental disabilities professional trained in the appropriate use of physical restraint.

I. In applying physical restraint, a mental health or developmental disabilities professional shall use only reasonable force as is necessary to protect the child or other person from imminent and serious physical harm.

J. Seclusion shall be applied only by mental health or developmental disabilities professionals who are trained in the appropriate use of seclusion.

K. At a minimum, a room used for seclusion shall:

(1) be free of objects and fixtures with which a child could self-inflict bodily harm;

(2) provide the mental health or developmental disabilities professional an adequate and continuous view of the child from an adjacent area; and

(3) provide adequate lighting and ventilation.

L. During the seclusion of a child, the mental health or developmental disabilities professional shall:

(1) view the child placed in seclusion at all times; and

(2) provide the child placed in seclusion with:

(a) an explanation of the behavior that resulted in the seclusion;  
and

(b) instructions on the behavior required to return to the environment.

M. At a minimum, a mental health or developmental disabilities professional shall reassess a child in restraint or seclusion every thirty minutes.

N. The use of a mechanical restraint is prohibited in a mental health and developmental disability treatment setting unless the treatment setting is certified by and meets the requirements of the joint commission for the accreditation of health care organizations.

O. This section does not prohibit a mental health or developmental disabilities professional from using a protective or stabilizing device:

(1) as prescribed by a health professional; or

(2) for a child with a disability, in accordance with a written treatment plan, including but not limited to a school individualized education plan or behavior intervention plan."

## **Chapter 162 Section 11 Laws 2007**

Section 11. A new section of the Children's Code is enacted to read:

"TRAINING REQUIRED FOR A PROFESSIONAL WHO USES RESTRAINT OR SECLUSION.--A mental health or developmental disabilities professional who administers restraint or seclusion shall receive training in current professionally accepted practices and standards regarding:

- A. positive behavior interventions strategies and supports;
- B. functional behavior assessment and behavior intervention planning;
- C. prevention of self-injurious behaviors;
- D. methods for identifying and defusing potentially dangerous behavior; and
- E. restraint and seclusion, to the extent that each may be used in the treatment setting."

## **Chapter 162 Section 12 Laws 2007**

Section 12. A new section of the Children's Code is enacted to read:

"PERSONAL RIGHTS OF A CHILD IN AN OUT-OF-HOME TREATMENT OR HABILITATION PROGRAM--SCOPE.--

A. A child in an out-of-home treatment or habilitation program shall have, in addition to other rights set forth in the Children's Mental Health and Developmental Disabilities Act, the right to:

- (1) be placed in a manner consistent with the least restrictive means principle;
- (2) have access to the state's designated protection and advocacy system and access to an attorney of the child's choice, provided that the child is not entitled to appointment of an attorney at public expense, except as otherwise provided in Subsection C of Section 13 of the Children's Mental Health and Developmental Disabilities Act;
- (3) receive visitors of the child's own choosing on a daily basis, subject to restrictions imposed in the best interests of the child by the child's clinician for good

cause. Hours during which visitors may be received shall be limited only in the interest of effective treatment and the reasonable efficiency of the program and shall be sufficiently flexible to accommodate the individual needs of the child and the child's visitors. Notwithstanding the provisions of this subsection, each child has the right to receive visits from the child's attorney, physician, psychologist, clergy, guardian ad litem, representatives from the state's protection and advocacy system or children, youth and families department in private at any reasonable time, irrespective of visiting hours, provided the visitor shows reasonable cause for visiting at times other than normal visiting hours;

(4) have writing materials and postage stamps reasonably available for the child's use in writing letters and other communications. Reasonable assistance shall be provided for writing, addressing and posting letters and other documents upon request. The child has the right to send and receive sealed and uncensored mail. The child has the right to reasonable private access to telephones and, in cases of personal emergencies when other means of communication are not satisfactory, the child shall be afforded reasonable use of long distance calls; provided that for other than mail or telephone calls to a court, an attorney, a physician, a psychologist, a clergy, a guardian ad litem, a representative from the state's protection and advocacy system or a social worker, mailing or telephone privileges may be restricted by the child's clinician for good cause shown. A child who is indigent shall be furnished writing, postage and telephone facilities without charge;

(5) reasonable access to a legal custodian and a family member through visitation, videoconferencing, telephone access and opportunity to send and receive mail. In-person-visitation is preferred and reasonable efforts shall be made to facilitate such visitation unless the child and family choose otherwise. Access by legal custodians and family members to the child shall be limited only in the interest of effective treatment and the reasonable efficiency of the program and shall be sufficiently flexible to accommodate the individual needs of legal custodians and family members. Treatment needs that justify limitation on the access rights of a legal custodian or family member must be specifically documented by the clinician in the child's record and any such limitation automatically expires in seven days;

(6) follow or abstain from the practice of religion. The program shall provide appropriate assistance in this connection, including reasonable accommodations for religious worship and transportation to nearby religious services. A child who does not wish to participate in religious practice shall be free from pressure to do so or to accept religious beliefs;

(7) a humane psychological and physical environment. The child shall be provided a comfortable bed and adequate changes of linen and reasonable secure storage space for personal possessions. Except when curtailed for reasons of safety or therapy as documented in the child's record by the child's physician, the child shall be afforded reasonable privacy in sleeping and personal hygiene practices;

(8) reasonable daily opportunities for physical exercise and outdoor exercise and reasonable access to recreational areas and equipment, including equipment adapted to the child's developmental and physical needs;

(9) a nourishing, well-balanced, varied and appetizing diet;

(10) prompt and adequate medical attention for a physical ailment. Each child shall receive a complete physical examination upon admission, except when documentation is provided that the child has had such examination within the six months immediately prior to the current admission. Each child shall receive a complete physical examination every twelve months thereafter;

(11) a clean, safe and comfortable environment in a structure that complies with applicable fire and safety requirements;

(12) appropriate medication and freedom from unnecessary or excessive medication. Medication shall not be used as discipline, as a substitute for programs, for the convenience of staff or in quantities that interfere with the child's treatment or habilitation program. No medication shall be administered unless by written order of a clinician licensed to prescribe medication or by an oral order noted immediately in the patient's medical record and signed by that clinician within twenty-four hours. All prescriptions for psychotropic medications must be reviewed at least every thirty days. Notation of each child's medication shall be kept in the child's medical records and shall include a notation by the clinician licensed to prescribe medication of the behavioral or symptomatic baseline data upon which the medication order was made; and

(13) a free public education. The child shall be educated in regular classes with nondisabled children whenever appropriate. In no event shall a child be allowed to remain in an out-of-home treatment or habilitation program for more than ten days without receiving educational services. If the child's placement in an out-of-home treatment or habilitation program is required by an individualized education plan that conforms to the requirements of state and federal law, the sending school is responsible for the provision of education to the child. In all other situations, the local school district in which the out-of-

home treatment or habilitation program is located is responsible for the provision of educational services to the child. Nothing in this subsection shall limit a child's right to public education under state, tribal or federal law.

B. A child receiving services in an out-of-home treatment or habilitation program, including but not limited to residential treatment or habilitation programs, shall be provided notice of rights immediately upon admission to such program."

## **Chapter 162 Section 13 Laws 2007**

Section 13. A new section of the Children's Code is enacted to read:

## "LEGAL REPRESENTATION OF CHILDREN.--

A. A child shall be represented by an attorney at all commitment or treatment guardianship proceedings under the Children's Mental Health and Developmental Disabilities Act if the child is fourteen years of age or older or by a guardian ad litem if the child is under fourteen years of age.

B. When a child has not retained an attorney or a guardian ad litem in a commitment or treatment guardian proceeding and is unable to do so, the court shall appoint an attorney or a guardian ad litem to represent the child in the proceeding. Only an attorney with appropriate experience shall be appointed as an attorney or a guardian ad litem for the child. Whenever reasonable and appropriate, the court shall appoint a guardian ad litem or attorney who is knowledgeable about the child's cultural background.

C. A child of any age shall have access to the state's designated protection and advocacy system and access to an attorney of the child's choice, provided that the child is not entitled to appointment of an attorney at public expense, except as set forth in Subsections A and B of this section.

D. A child shall not be represented or counseled by an attorney or guardian ad litem who has a conflict of interest, including but not limited to any conflict of interest resulting from prior representation of the child's parent, guardian, legal custodian or residential treatment or habilitation program."

## **Chapter 162 Section 14 Laws 2007**

Section 14. A new section of the Children's Code is enacted to read:

### "CONSENT FOR SERVICES--CHILDREN UNDER FOURTEEN YEARS OF AGE.--

A. Except as provided in Subsection B of this section, the informed consent of a child's legal custodian shall be required before treatment or habilitation, including psychotherapy or psychotropic medications, is administered to a child under fourteen years of age.

B. A child under fourteen years of age may initiate and consent to an initial assessment with a clinician and for medically necessary early intervention service limited to verbal therapy as set forth in this section. The purpose of the initial assessment is to allow a clinician to interview the child and determine what, if any, action needs to be taken to ensure appropriate mental health or habilitation services are provided to the child. The clinician may conduct an initial assessment and provide medically necessary early intervention service limited to verbal therapy with or without the consent of the legal custodian if such service will not extend beyond two calendar weeks. If, at any time, the clinician has a reasonable suspicion that the child is an

abused or neglected child, the clinician shall immediately make a child abuse and neglect report."

## **Chapter 162 Section 15 Laws 2007**

Section 15. A new section of the Children's Code is enacted to read:

"CONSENT FOR SERVICES--CHILDREN FOURTEEN YEARS OF AGE OR OLDER.--

A. A child fourteen years of age or older is presumed to have capacity to consent to treatment without consent of the child's legal custodian, including consent for individual psychotherapy, group psychotherapy, guidance counseling, case management, behavioral therapy, family therapy, counseling, substance abuse treatment or other forms of verbal treatment that do not include aversive interventions. Nothing in this section shall be interpreted to provide a child fourteen years of age or older with independent consent rights for the purposes of the provision of special education and related services as set forth in federal law.

B. Psychotropic medications may be administered to a child fourteen years of age or older with the informed consent of the child. When psychotropic medications are administered to a child fourteen years of age or older, the child's legal custodian shall be notified by the clinician.

C. A clinician or other mental health and developmental disabilities professional shall promote the healthy involvement of a child's legal custodians and family members in developing and implementing the child's treatment plan, including appropriate participation in treatment for children fourteen years of age or older. However, nothing in this section shall limit the rights of a child fourteen years of age or older to consent to services and to consent to disclosure of mental health records."

## **Chapter 162 Section 16 Laws 2007**

Section 16. A new section of the Children's Code is enacted to read:

"CONSENT FOR SERVICES--DETERMINATION OF CAPACITY FOR CHILDREN FOURTEEN YEARS OF AGE OR OLDER.--

A. When a child fourteen years of age or older has been determined according to the provisions of this section to lack capacity, the child's legal custodian may make a mental health or habilitation decision for the child unless the child objects to such decision or the legal custodian's assumption of authority to make mental health or developmental disability treatment decisions or determination of lack of capacity. Nothing in this subsection:

(1) permits a legal custodian to consent to placement of a child in a residential treatment or habilitation program without the proper consent of the child if the child is fourteen years of age or older; or

(2) in any way, limits a child's right to involuntary commitment procedures as set forth in the Children's Mental Health and Developmental Disabilities Act.

B. The determination that a child fourteen years of age or older lacks or has recovered capacity shall be made by two clinicians, one of whom shall be a person who works with children in the ordinary course of that clinician's practice.

C. A child fourteen years of age or older shall not be determined to lack capacity solely on the basis that the child chooses not to accept the treatment recommended by the mental health or developmental disabilities professional.

D. A child fourteen years of age or older may at any time contest a determination that the child lacks capacity by a signed writing or by personally informing a clinician that the determination is contested. A clinician who is informed by a child that such determination is contested shall promptly communicate that the determination is contested to any supervising provider or institution at which the child is receiving care. Such a challenge shall prevail unless otherwise ordered by the court in a proceeding brought pursuant to the treatment guardianship provisions of the Children's Mental Health and Developmental Disabilities Act.

E. A determination of lack of capacity under the Children's Mental Health and Developmental Disabilities Act shall not be evidence of incapacity for any other purpose.

F. The legal custodian shall communicate an assumption of authority as promptly as practicable to the child fourteen years of age or older and to the clinician and to the supervising mental health or developmental disability treatment and habilitation provider.

G. If more than one legal custodian assumes authority to act as an agent, the consent of both shall be required for nonemergency treatment. In an emergency, the consent of one legal custodian is sufficient, but the treating mental health professional shall provide the other legal custodian with oral notice followed by written documentation.

H. If more than one legal custodian assumes authority to act as an agent and the legal custodians do not agree on a nonemergency mental health treatment decision and the clinician is so informed, the clinician shall not treat the child unless a treatment guardian is appointed pursuant to the provisions of the Children's Mental Health and Developmental Disabilities Act.

I. A legal custodian shall make treatment decisions in accordance with a child's individual instructions, if any, and other wishes to the extent known to the legal custodian. Otherwise, the legal custodian shall make decisions in accordance with the legal custodian's determination of the child's best interests. In determining the child's best interests, the legal custodian shall consider the child's personal values to the extent known to the legal custodian.

J. A mental health treatment decision made by a legal custodian for a child fourteen years of age or older who has been determined to lack capacity shall not be made solely on the basis of the child's pre-existing physical or medical condition or pre-existing or projected disability.

K. A mental health treatment decision made by a legal custodian for a child fourteen years of age or older who has been determined to lack capacity is effective without judicial approval unless contested by the child.

L. If no legal custodian or agent is reasonably available to make mental health or habilitation decisions for the child, any interested party may petition for the appointment of a treatment guardian."

## **Chapter 162 Section 17 Laws 2007**

Section 17. A new section of the Children's Code is enacted to read:

"TREATMENT GUARDIANSHIP PROCEEDINGS.--

A. If no legal custodian is reasonably available to make mental health decisions for a child fourteen years of age or older who has been determined to lack capacity or if a clinician who proposes a course of treatment objects to a challenge made by the child to a determination of incapacity, the clinician shall request that the children's court attorney petition the court for appointment of a treatment guardian to make a substitute decision for the child.

B. In a treatment guardian proceeding, the court shall appoint an attorney for the child unless the child already has an attorney available.

C. A petition shall be served on the child and the child's attorney. A hearing on the petition shall be held within three business days. At the hearing, the child shall be represented by counsel and shall have the right to be present, to present witnesses and to cross-examine opposing witnesses.

D. If, after the hearing, the court finds that the child is not capable of making treatment decisions and treatment is needed, the court shall order the appointment of a treatment guardian. When appointing a treatment guardian, the court shall appoint the child's legal custodian unless the legal custodian is not readily available or the court finds that such an appointment is not in the child's best interests.

E. The treatment guardian shall make a decision on behalf of the child based on the treatment guardian's best judgment of whether the treatment appears to be in the child's best interests and is consistent with the least restrictive means principle for accomplishing the treatment objective. In making this decision, the treatment guardian shall consult with the child and consider the child's expressed opinions. The treatment guardian shall give consideration to previous decisions made by the child in similar circumstances when the child was able to make treatment decisions and shall make the decision in accordance with the values of the child if known, or in the best interests of the child if the values are not known; provided that, if the child has given an individual instruction that is available to the treatment guardian, the instruction shall be followed.

F. If a child who is not a resident of a residential treatment and habilitation program has a treatment guardian and refuses to comply with the decision of the treatment guardian, the treatment guardian may obtain an enforcement order. The enforcement order may authorize a peace officer to take the child into custody or to transport the child to an evaluation facility and may authorize the facility to forcibly administer treatment. The treatment guardian shall consult with the clinician who is proposing treatment, the child's attorney or guardian ad litem and, as deemed appropriate, interested friends or relatives of the child. The evaluation facility shall comply with the treatment guardian's decision unless the clinician finds it to be against the best interests of the child.

G. A child, physician or other professional wishing to contest the decision of the treatment guardian may do so by filing a petition with the court within three calendar days or the next business day, whichever is later, of receiving notice of the treatment guardian's decision. The child shall be represented by counsel in all proceedings before the court. The court may overrule the treatment guardian's decision if it finds that decision to be against the best interests of the child. The court shall rule within seven days of the filing of the petition.

H. If both a petition for an enforcement order and a petition to contest the treatment guardian's decision are filed, they shall be heard in the same proceeding at the same time.

I. When the court appoints a treatment guardian, it shall specify the length of time during which the treatment guardian may exercise treatment guardian powers, up to a maximum period of one year. If, at the end of the guardianship period, the treatment guardian believes that the child still lacks capacity, the treatment guardian shall petition the court for reappointment or for appointment of a new treatment guardian. The guardianship shall be extended or a new guardian shall be appointed only if the court finds the child does not have capacity to make treatment or habilitation decisions at the time of the hearing. The court shall appoint an attorney for the child, and the child shall have the right to be present and to present evidence at all such hearings.

J. If, during the period of a treatment guardian's power, the treatment guardian, the child, the treatment provider or a member of the child's family believes that the child

has regained capacity, that person may petition the court for a termination of the treatment guardianship. If the court finds the child has regained capacity, it shall terminate the power of the treatment guardian and restore to the child the power to make treatment decisions.

K. A treatment guardian shall have only those powers enumerated in the Children's Mental Health and Developmental Disabilities Act.

L. If a clinician licensed to prescribe medication believes that the administration of psychotropic medication is necessary to protect the child from serious harm that could occur while the provisions of this section are being satisfied, the licensed clinician may order or administer the medication on an emergency basis. When medication is administered to a child on an emergency basis, the clinician shall prepare and place in the child's medical records a report explaining the nature of the emergency and the reason that no treatment less restrictive than administration of psychotropic medication without proper consent would have protected the child from serious harm. When medication is administered to a child on an emergency basis, the child's legal custodian and the child's attorney or guardian ad litem shall be notified by the residential treatment or habilitation program. If the child is not in a residential setting, the clinician shall petition for a pickup order pursuant to Section 19 of the Children's Mental Health and Developmental Disabilities Act and have the child transported to a residential facility where the medication will be administered."

## **Chapter 162 Section 18 Laws 2007**

Section 18. A new section of the Children's Code is enacted to read:

"INDIVIDUAL INSTRUCTIONS.--

A. A child fourteen years of age or older who has capacity also has the right to direct the child's own treatment in the event of later incapacity. To do so, the child may give an individual instruction regarding the child's own treatment or habilitation. The individual instruction may be limited to take effect only if a specified condition arises.

B. An individual instruction shall be effective without judicial approval and shall be written and signed by the child and the child's legal custodian and signed by a witness who is at least eighteen years of age and who attests that the child and the child's legal custodian are known to the witness, that they signed the individual instruction for mental health treatment in the witness' presence and that they appear to have capacity and are not acting under duress, fraud or undue influence.

C. A witness to an individual instruction shall not be related to the child or the child's legal custodian by blood or marriage, the child's attending qualified health care professional or an owner, operator or employee of a mental health facility at which the child is receiving care or of any parent organization, subsidiary or contractor of the mental health facility.

D. If the child's legal custodian refuses to consent to the individual instruction, the child may petition the court for determination of whether the individual instruction is in the child's best interest.

E. A child's legal custodian or treatment guardian shall make treatment decisions in accordance with the child's individual instruction unless the treatment requested is infeasible or unavailable or would not offer the child any significant benefit as determined by the child's clinician.

F. The individual instruction shall be implemented by the child's legal custodian under this section only upon certification that the child lacks capacity. The instruction shall cease to be effective upon a determination that the child has recovered capacity.

G. Written certification that a child lacks or has recovered capacity or that another condition exists that affects an individual instruction shall be made according to the provisions of the Children's Mental Health and Developmental Disabilities Act. A child while having capacity may revoke all or part of an individual instruction for mental health treatment at any time and in any manner that communicates an intent to revoke.

H. The fact that a child has executed a written individual instruction for treatment shall not constitute an indication of mental illness.

I. A clinician who knows the existence of an individual instruction for mental health treatment, a revocation or a challenge to a determination or certification of lack of capacity shall obtain a copy and shall place it in the child's health care record.

J. A clinician shall disclose an individual instruction for mental health treatment to other clinicians only when it is determined that the disclosure is necessary to provide treatment in accordance with an individual instruction."

## **Chapter 162 Section 19 Laws 2007**

Section 19. A new section of the Children's Code is enacted to read:

"EMERGENCY MENTAL HEALTH EVALUATION AND CARE.--

A. A peace officer may detain and transport a child for emergency mental health evaluation and care in the absence of a legally valid order from the court only if the peace officer:

(1) has reasonable grounds to believe the child has just attempted suicide;

(2) based upon personal observation and investigation, has reasonable grounds to believe that the child, as a result of a mental disorder, presents a likelihood of serious harm to self or others and that immediate detention is necessary to prevent such harm. The peace officer shall convey the peace officer's beliefs to the admitting

physician or licensed psychologist immediately upon the officer's arrival at the evaluation facility;

(3) has certification from a clinician that the child, as a result of a mental disorder, presents a likelihood of serious harm to self or others and that immediate intervention is necessary to prevent the harm; or

(4) has an involuntary placement order issued by a tribal court that orders the child to be admitted to an evaluation facility.

B. A peace officer shall immediately transport a child detained under this section to an evaluation facility. In the case of an extreme emergency, the child may be held for a period of up to twenty-four hours in temporary emergency placement in:

(1) a foster home licensed to provide specialized or therapeutic care;

(2) a facility operated by a licensed child services agency that meets standards promulgated by the department for the care of children who present the likelihood of serious harm to themselves or others; and

(3) residential care on an emergency basis.

C. A child shall not be held for the purposes of emergency mental health evaluation or care in a jail or other facility intended or used for the incarceration of adults charged with criminal offenses or for the detention of children alleged or adjudicated to be delinquent children.

D. The director of an evaluation facility shall accomplish an emergency evaluation upon the request of a child's legal custodian, a peace officer, a detention facility administrator or the administrator's designee or upon the certification of a clinician. A court order is not required under this section. If an application is made to a court, the court's power to act in furtherance of an emergency admission shall be limited to ordering that:

(1) the child be seen by a clinician prior to transport to an evaluation facility; and

(2) a peace officer transport the child to an evaluation facility.

E. The admitting physician or licensed psychologist shall evaluate whether reasonable grounds exist to detain the child for evaluation and treatment, and, if reasonable grounds are found, the child shall be detained. If the admitting physician or licensed psychologist determines that reasonable grounds do not exist to detain the child for evaluation and treatment, the child shall not be detained but shall be released to the custody of the child's legal custodian.

F. Upon arrival at an evaluation facility, the child shall be informed orally and in writing by the evaluation facility of the purpose and possible consequences of the proceedings, the allegations in the petition, the child's right to a hearing within seven days, the child's right to counsel and the child's right to communicate with an attorney or a guardian ad litem and an independent mental health professional of the child's own choosing. A child shall have the right to receive necessary and appropriate treatment.

G. A peace officer who transports a child to an evaluation facility pursuant to the provisions of this section shall not require a court order to be reimbursed by the referring county.

H. If a child is transported to or detained at an evaluation facility and is not released to the child's legal custodian, the peace officer transporting the child shall give written notice thereof as soon as possible within twenty-four hours to the child's legal custodian, together with a statement of the reason for taking the child into custody."

## **Chapter 162 Section 20 Laws 2007**

Section 20. A new section of the Children's Code is enacted to read:

"CONSENT TO PLACEMENT IN A RESIDENTIAL TREATMENT OR HABILITATION PROGRAM--CHILDREN YOUNGER THAN FOURTEEN YEARS OF AGE.--

A. A child younger than fourteen years of age shall not receive residential treatment for a mental disorder or habilitation for a developmental disability, except as provided in this section.

B. A child younger than fourteen years of age may be admitted to a residential treatment or habilitation program for a period not to exceed sixty days with the informed consent of the child's legal custodian, subject to the requirements of this section.

C. In order to admit a child younger than fourteen years of age to a residential treatment or habilitation program, the child's legal custodian shall knowingly and voluntarily execute a consent to admission document prior to the child's admission. The consent to admission document shall be in a form designated by the supreme court. The consent to admission document shall include a clear statement of the legal custodian's right to voluntarily consent to or refuse the child's admission, the legal custodian's right to request the child's immediate discharge from the residential treatment program at any time and the legal custodian's rights when the legal custodian requests the child's discharge and the child's physician, licensed psychologist or the director of the residential treatment or habilitation program determines that the child needs continued treatment. The residential treatment or habilitation program shall ensure that each statement is clearly explained in the child's and legal custodian's primary language, if that is their language of preference, and in a manner appropriate to

the child's and legal custodian's developmental abilities. Each statement shall be initialed by the child's legal custodian.

D. The legal custodian's executed consent to admission document shall be filed with the child's treatment records within twenty-four hours of the time of admission.

E. Upon the filing of the legal custodian's consent to admission document in the child's hospital records, the director of the residential treatment or habilitation program or the director's designee shall, on the next business day following the child's admission, notify the district court or the special commissioner appointed pursuant to Section 25 of the Children's Mental Health and Developmental Disabilities Act regarding the admission and provide the child's name, date of birth and the date and place of admission. The court or special commissioner shall, upon receipt of notice regarding a child's admission to a residential treatment or habilitation program, establish a sequestered court file.

F. The director of a residential treatment or habilitation program or the director's designee shall, on the next business day following the child's admission, petition the court to appoint a guardian ad litem for the child. When the court receives the petition, the court shall appoint a guardian ad litem.

G. Within seven days of a child's admission to a residential treatment or habilitation program, a guardian ad litem, representing the child's best interests and in accordance with the provisions of the Children's Mental Health and Developmental Disabilities Act, shall meet with the child, the child's legal custodian and the child's clinician. The guardian ad litem shall determine the following:

(1) whether the child's legal custodian understands and consents to the child's admission to a residential treatment or habilitation program;

(2) whether the admission is in the child's best interests; and

(3) whether the admission is appropriate for the child and is consistent with the least drastic means principle.

H. If a guardian ad litem determines that the child's legal custodian understands and consents to the child's admission and that the admission is in the child's best interests, is appropriate for the child and is consistent with the least drastic means principle, the guardian ad litem shall so certify on a form designated by the supreme court. The form, when completed by the guardian ad litem, shall be filed in the child's patient record kept by the residential treatment or habilitation program, and a copy shall be forwarded to the court or special commissioner within seven days of the child's admission. The guardian ad litem's statement shall not identify the child by name.

I. Upon reaching the age of fourteen, a child who was admitted to a residential treatment or habilitation program pursuant to this section may petition the district court

for the records of the district court regarding all matters pertinent to the child's admission to a residential treatment or habilitation program. The district court, upon receipt of the petition and upon a determination that the petitioner is in fact a child who was admitted to a residential treatment or habilitation program, shall provide all court records regarding the admission to the petitioner, including all copies in the court's possession, unless there is a showing that release of records would cause substantial harm to the child. Upon reaching the age of eighteen, a person who was admitted to a residential or treatment or habilitation program as a child may petition the district court for such records, and the district court shall provide all court records regarding the admission to the petitioner, including all copies in the court's possession.

J. A legal custodian who consents to admission of a child to a residential treatment or habilitation program has the right to request the child's immediate discharge from the residential treatment or habilitation program, subject to the provisions of this section. If a child's legal custodian informs the director, a physician or other member of the residential treatment or habilitation program staff that the legal custodian desires the child to be discharged from the program, the director, physician or other staff shall provide for the child's immediate discharge and remit the child to the legal custodian's care. The residential treatment or habilitation program shall also notify the child's guardian ad litem. A child whose legal custodian requests the child's immediate discharge shall be discharged, except when the director of the residential treatment or habilitation program, a physician or a licensed psychologist determines that the child requires continued treatment and that the child meets the criteria for involuntary residential treatment. In that event, the director, physician or licensed psychologist shall, on the first business day following the child's legal custodian's request for release of the child from the program, request that the children's court attorney initiate involuntary residential treatment proceedings. The children's court attorney may petition the court for such proceedings. The child has a right to a hearing regarding the child's continued treatment within seven days of the request for release.

K. A residential treatment or habilitation program shall review the admission of a child at the end of a sixty-day period after the date of initial admission, and the child's physician or licensed psychologist shall review the admission to determine whether it is in the best interests of the child to continue the admission. If the child's physician or licensed psychologist concludes that continuation of the residential treatment or habilitation program is in the child's best interests, the child's clinician shall so state in a form to be filed in the child's patient records. The residential treatment or habilitation program shall notify the guardian ad litem for the child at least seven days prior to the date that the sixty-day period is to end or, if necessary, request a guardian ad litem pursuant to the provisions of the Children's Mental Health and Developmental Disabilities Act. The guardian ad litem shall then personally meet with the child, the child's legal custodian and the child's clinician and ensure that the child's legal custodian understands and consents to the child's continued admission to the residential treatment or habilitation program. If the guardian ad litem determines that the child's legal custodian understands and consents to the child's continued admission to the residential treatment or habilitation program, that the continued admission is in the

child's best interest, that the placement continues to be appropriate for the child and consistent with the least restrictive means principle and that the clinician has recommended the child's continued stay in the program, the guardian ad litem shall so certify on a form designated by the supreme court. The disposition of these forms shall be as set forth in this section, with one copy going in the child's patient record and the other being sent to the district court in a manner that preserves the child's anonymity. This procedure shall take place every sixty days following the child's last admission or a guardian ad litem's certification, whichever occurs first.

L. When a guardian ad litem determines that the child's legal custodian does not understand or consent to the child's admission to a residential treatment or habilitation program, that the admission is not in the child's best interests, that the placement is inappropriate for the child or is inconsistent with the least restrictive means principle or that the child's clinician has not recommended a continued stay by the child in the residential treatment or habilitation program, the child shall be released or involuntary placement procedures shall be initiated.

M. If the child's legal custodian is unavailable to take custody of the child and immediate discharge of the child would endanger the child, the residential treatment or habilitation program may detain the child until a safe and orderly discharge is possible. If the child's legal custodian refuses to take physical custody of the child, the residential treatment or habilitation program shall refer the case to the department for an abuse and neglect or family in need of court-ordered services investigation. The department may take the child into protective custody pursuant to the provisions of the Abuse and Neglect Act or the Family in Need of Court-Ordered Services Act."

## **Chapter 162 Section 21 Laws 2007**

Section 21. A new section of the Children's Code is enacted to read:

"VOLUNTARY RESIDENTIAL TREATMENT OR HABILITATION FOR CHILDREN FOURTEEN YEARS OF AGE OR OLDER.--

A. A child fourteen years of age or older shall not receive treatment for mental disorders or habilitation for developmental disabilities on a voluntary residential basis, except as provided in this section.

B. An admission of a child fourteen years of age or older to a residential treatment or habilitation program is voluntary when it is medically necessary and consented to by the child and the child's legal custodian as set forth in this section, provided that the admission does not exceed sixty days, subject to the requirements of this section.

C. To have a child voluntarily admitted to a residential treatment or habilitation program, the child and the child's legal custodian shall knowingly and voluntarily execute, prior to admission, a child's voluntary consent to admission document. The

document shall include a clear statement of the child's right to voluntarily consent or to request an immediate discharge from the residential treatment or habilitation program at any time; and the child's rights when the child requests a discharge and the child's physician, licensed psychologist or the director of the residential treatment or habilitation program determines the child needs continued treatment. The residential treatment or habilitation program shall ensure that each statement is clearly explained in the child's and legal custodian's primary language, if that is their language of preference, and in a manner appropriate to the child's and legal custodian's developmental abilities, and each statement shall be initialed by the child and the child's legal custodian.

D. A child who is admitted on a voluntary basis has a right to an attorney. Prior to admission, the residential treatment or habilitation program shall inform the child's legal custodian of the child's right to an independent attorney within seventy-two hours. If the child's legal custodian is unable to obtain an independent attorney, the legal custodian may petition the court to appoint an attorney for the child. If the child's legal custodian obtains an independent attorney for the child, the legal custodian shall notify the residential treatment or habilitation program of that attorney's name within seventy-two hours of the child's voluntary admission.

E. The child's executed voluntary consent to admission document shall be filed in the child's treatment record within twenty-four hours of the time of admission.

F. Upon the filing of the child's voluntary consent to admission document in the child's treatment record, the director of the residential treatment or habilitation program or the director's designee shall, on the next business day following the child's admission, notify the district court or the special commissioner of the admission, giving the child's name, date of birth and the date and place of admission. Upon receipt of notice of a child's voluntary admission to a residential treatment or habilitation program, the court or special commissioner shall establish a sequestered court file.

G. If within seventy-two hours of the child's voluntary admission the child has not met with an independent attorney and the child's legal custodian has not notified the residential treatment or habilitation program of the name of the child's independent attorney, the residential treatment or habilitation program shall during the next business day petition the court to appoint an attorney. When the court receives the petition, the court shall appoint an attorney.

H. If within seventy-two hours of the child's voluntary admission the child has met with an independent attorney or the child's legal custodian has notified the residential treatment or habilitation program of the name of the child's independent attorney, the residential treatment or habilitation program shall during the next business day notify the court or the special commissioner of the name of the child's independent attorney.

I. Within seven days of the admission, an attorney representing the child pursuant to the provisions of the Children's Mental Health and Developmental

Disabilities Act shall meet with the child. At the meeting with the child, the attorney shall explain to the child the following:

(1) the child's right to an attorney;

(2) the child's right to terminate the child's voluntary admission and the procedures to effect termination;

(3) the effect of terminating the child's voluntary admission and options of the clinician and other interested parties to petition for an involuntary admission; and

(4) the child's rights under the provisions of the Children's Mental Health and Developmental Disabilities Act, including the right to:

(a) legal representation;

(b) a presumption of competence;

(c) receive daily visitors of the child's choice;

(d) receive and send uncensored mail;

(e) have access to telephones;

(f) follow or abstain from the practice of religion;

(g) a humane and safe environment;

(h) physical exercise and outdoor exercise;

(i) a nourishing, well-balanced, varied and appetizing diet;

(j) medical treatment;

(k) educational services;

(l) freedom from unnecessary or excessive medication;

(m) individualized treatment and habilitation; and

(n) participation in the development of the individualized treatment plan and access to that plan on request.

J. If the attorney determines that the child understands the child's rights and that the child voluntarily and knowingly desires to remain as a patient in a residential treatment or habilitation program, the attorney shall so certify on a form designated by

the supreme court. The form, when completed by the attorney, shall be filed in the child's patient record at the residential treatment or habilitation program, and a copy shall be forwarded to the court or special commissioner within seven days of the child's admission. The attorney's statement shall not identify the child by name.

K. Upon reaching the age of fourteen, a child who was a voluntary admittee to a residential treatment or habilitation program may petition the district court for the records of the court regarding all matters pertinent to the child's voluntary admission to a residential treatment or habilitation program. The court, upon receipt of the petition and upon a determination that the petitioner was in fact the child who was a voluntary admittee to a residential treatment or habilitation program, shall give all court records regarding the admission to the petitioner, including all copies in the court's possession unless there is a showing that provision of records would cause substantial harm to the child. A person who was admitted to a residential or treatment or habilitation program as a child, upon reaching the age of eighteen, may petition the district court for such records and the district court shall provide all court records regarding the admission to the petitioner, including all copies in the court's possession.

L. Any child voluntarily admitted to a residential treatment or habilitation program has the right to an immediate discharge from the residential treatment or habilitation program upon the child's request, except as provided in this section. If a child informs the director, clinician or other member of the residential treatment or habilitation program staff that the child desires to be discharged from the voluntary program, the director, clinician or other staff member shall provide for the child's immediate discharge. The residential treatment or habilitation program shall not require that the child's request be in writing. Upon the request, the residential treatment or habilitation program shall notify the child's legal custodian to take custody of the child and remit the child to the legal custodian's care. The residential treatment or habilitation program shall also notify the child's attorney. If the child's legal custodian is unavailable to take custody of the child and immediate discharge of the child would endanger the child, the residential treatment or habilitation program may detain the child until a safe and orderly discharge is possible. If the child's legal custodian refuses to take physical custody of the child, the residential treatment or habilitation program shall refer the case to the department for an abuse and neglect or family in need of court-ordered services investigation. The department may take the child into protective custody pursuant to the provisions of the Abuse and Neglect Act or the Family in Need of Court-Ordered Services Act. A child requesting immediate discharge shall be discharged, except in those situations when the director of the residential treatment or habilitation program, a physician or a licensed psychologist determines that the child requires continued treatment and that the child meets the criteria for involuntary residential treatment or habilitation services as otherwise provided under the Children's Mental Health and Developmental Disabilities Act. In that event, the director, physician or licensed psychologist, after making the determination, shall, on the first business day following the child's request for release from the voluntary program, request that the child's court attorney initiate involuntary placement proceedings. The child's court attorney may

petition for such a placement. The child has a right to a hearing on the child's continued treatment within five days of the child's request for release.

M. A child who is voluntarily admitted to a residential treatment or habilitation program shall have the child's voluntary admission reviewed at the end of a sixty-day period from the date of the child's initial admission to the program. The review shall be accomplished by having the child's physician or licensed psychologist review the child's treatment and determine whether it would be in the best interests of the child to continue the voluntary admission. If the child's physician or licensed psychologist concludes that continuation of treatment is in the child's best interests, the child's clinician shall so state in a form to be filed in the child's patient record. The residential treatment or habilitation program shall notify the child's attorney at least seven days prior to the date that the sixty-day period is to end or, if necessary, request an attorney pursuant to the provisions of the Children's Mental Health and Developmental Disabilities Act. The attorney shall then personally meet with the child and ensure that the child understands the child's rights as set forth in this section, that the child understands the method for voluntary termination of the child's admission and that the child knowingly and voluntarily consents to the child's continued treatment. If the attorney determines that the child understands these rights and that the child voluntarily and knowingly desires to remain in the residential treatment or habilitation program and that the clinician has recommended the continued stay in the program, the attorney shall so certify on a form designated by the supreme court. The disposition of these forms shall be as set forth in this section, with one copy going in the child's patient record and the other being sent to the district court in a manner that preserves the child's anonymity. This procedure shall take place every sixty days from the last admission or attorney's certification, whichever comes first.

N. If the attorney determines that the child does not voluntarily desire to remain in the program or if the child's clinician has not recommended continued stay by the child in the residential treatment or habilitation program, the child shall be released pursuant to the involuntary placement procedures set forth in this section and the Children's Mental Health and Developmental Disabilities Act shall be followed."

## **Chapter 162 Section 22 Laws 2007**

Section 22. A new section of the Children's Code is enacted to read:

"INVOLUNTARY RESIDENTIAL TREATMENT.--

A. A child may not receive treatment for mental disorders or habilitation for developmental disabilities on an involuntary residential basis except as provided in this section.

B. A child afforded rights under the Children's Mental Health and Developmental Disabilities Act shall be advised of those rights at that child's first appearance before the court on a petition under that act.

C. A child has the right to be placed in a residential treatment or habilitation program only when the placement is medically necessary.

D. A person who believes that a child, as a result of a mental disorder or developmental disability, is in need of residential mental health or developmental disabilities services may request that a children's court attorney file a petition with the court for the child's involuntary placement. The petition shall include a detailed description of the symptoms or behaviors of the child that support the allegations in the petition, a list of prospective witnesses for involuntary placement and a summary of matters to which they will testify. The petition should also contain a discussion of the alternatives to residential care that have been considered and the reasons for rejecting the alternatives. A copy of the petition shall be served upon the child, the child's legal custodian and the child's attorney or guardian ad litem.

E. The court shall, upon receiving the petition, appoint counsel for the child unless the child has retained an attorney or an attorney or guardian ad litem has been appointed pursuant to the provisions of the Children's Mental Health and Developmental Disabilities Act. The attorney or guardian ad litem shall represent the child at all stages of the proceedings.

F. If, after interviewing the child, the child's attorney or guardian ad litem determines that the child understands the child's rights and desires to waive the child's presence at the hearing on the issue of involuntary placement, the attorney or guardian ad litem shall submit a verified written statement to the court explaining the attorney's or guardian ad litem's understanding of the child's intent. If the court is satisfied that the child has voluntarily and knowingly waived the child's right to be present at the hearing, the child may be involuntarily placed in a residential treatment or habilitation program at a hearing at which the child is not present. By waiving the right to be present at the involuntary placement hearing, the child waives no other rights.

G. An involuntary placement hearing shall be held within seven days of the emergency admission of the child to a residential treatment or habilitation program under this section. An involuntary placement hearing shall be held within five days from a child's declaration that the child desires to terminate the child's voluntary admission to a residential treatment or habilitation program if the child's clinician has assessed and documented that involuntary placement is necessary.

H. At the involuntary placement hearing, the child shall:

- (1) at all times be represented by counsel;
- (2) have the right to present evidence, including the testimony of a mental health and developmental disabilities professional of the child's own choosing;
- (3) have the right to cross-examine witnesses;

(4) have the right to a complete record of the proceedings; and

(5) have the right to an expeditious appeal of an adverse ruling.

I. The legal custodian of a child involved in an involuntary placement hearing shall have automatic standing as witnesses and shall be allowed to testify by telephone or through a written affidavit if circumstances make personal testimony too burdensome.

J. The court shall include in its findings either a statement of the child's legal custodian's opinion about whether the child should be involuntarily placed in a residential treatment or habilitation program, a statement detailing the efforts made to ascertain the legal custodian's opinion or a statement of why it was not in the child's best interests to have the legal guardian involved.

K. The court shall make an order involuntarily placing the child in a residential treatment or habilitation program upon a showing by clear and convincing evidence that:

(1) as a result of mental disorder or developmental disability the child needs the treatment or habilitation services proposed;

(2) as a result of mental disorder or developmental disability the child is likely to benefit from the treatment or habilitation services proposed;

(3) the proposed involuntary placement is consistent with the treatment or habilitation needs of the child; and

(4) the proposed involuntary placement is consistent with the least restrictive means principle.

L. If the court determines that the child does not meet the criteria for involuntary placement set forth in this section, it may order the child to undergo nonresidential treatment or habilitation as may be appropriate and necessary or it may order no treatment. If the court determines that the child should not be involuntarily placed in a residential treatment or habilitation program and if the child's legal custodian refuses to take custody of the child, the court shall refer the case to the department for an abuse and neglect investigation. The department may take the child into custody pursuant to the provisions of the Abuse and Neglect Act or the Family in Need of Court-Ordered Services Act.

M. A child receiving involuntary residential treatment or habilitation services for a mental disorder or developmental disability under this section shall have a right to periodic review of the child's involuntary placement at the end of every involuntary placement period. An involuntary placement period shall not exceed sixty days. At the expiration of an involuntary placement period, the child may continue in residential care only after a new involuntary placement hearing and entry of a new order of involuntary placement for one involuntary placement period. Nothing set forth in the Children's

Mental Health and Developmental Disabilities Act prohibits a child, who has been involuntarily placed and thereafter discharged and released, from subsequently voluntarily consenting to admission under the provisions of that act.

N. If the person seeking the involuntary placement of a child to a residential treatment or habilitation program believes that the child is likely to cause serious bodily harm to self or to others during the period that would be required to hold an involuntary placement hearing as provided in this section, the child may be admitted to residential care on an emergency basis. If the child is admitted on an emergency basis, appointment of counsel and other procedures shall then take place as provided elsewhere in this section."

## **Chapter 162 Section 23 Laws 2007**

Section 23. A new section of the Children's Code is enacted to read:

"LIABILITY OF PERSONS PROVIDING TREATMENT OR HABILITATION SERVICES.--

A. A person providing mental health and developmental disability services to a child and a treatment facility providing mental health and developmental disability services to a child shall not be liable if:

(1) the child does not require detention, treatment or services;

(2) the admission or treatment was made solely on the basis of misrepresentations by a child seeking treatment or habilitation services or by a child's legal custodian, provided the professional or the facility's staff acted in good faith; or

(3) the admission was made solely on the basis of reliance upon a tribal court order, provided the mental health or developmental professional or the facility's staff acted in good faith.

B. Nothing in the Children's Mental Health and Developmental Disabilities Act shall be construed to relieve any professional or facility from liability for negligence or intentional misconduct in the diagnosis, treatment or services provided to any child.

C. Nothing in the Children's Mental Health and Developmental Disabilities Act shall be construed to relieve any professional or facility from a duty pursuant to reporting laws relating to the detection of child abuse."

## **Chapter 162 Section 24 Laws 2007**

Section 24. A new section of the Children's Code is enacted to read:

"DISCLOSURE OF INFORMATION.--

A. Except as otherwise provided in the Children's Mental Health and Developmental Disabilities Act, a person shall not, without the authorization of the child, disclose or transmit any confidential information from which a person well-acquainted with the child might recognize the child as the described person or any code, number or other means that could be used to match the child with confidential information regarding the child.

B. When the child is under fourteen years of age, the child's legal custodian is authorized to consent to disclosure on behalf of the child. Information shall also be disclosed to a court-appointed guardian ad litem without consent of the child or the child's legal custodian.

C. A child fourteen years of age or older with capacity to consent to disclosure of confidential information shall have the right to consent to disclosure of mental health and habilitation records. A legal custodian who is authorized to make health care decisions for a child has the same rights as the child to request, receive, examine, copy and consent to the disclosure of medical or other health care information when evidence exists that such a child whose consent to disclosure of confidential information is sought does not have capacity to give or withhold valid consent and does not have a treatment guardian appointed by a court. If the legal custodian is not authorized to make decisions for a child under the Children's Mental Health and Developmental Disabilities Act, the person seeking authorization shall petition the court for the appointment of a treatment guardian to make a decision for such a child.

D. Authorization from the child shall not be required for the disclosure or transmission of confidential information when the disclosure or transmission:

(1) is necessary for treatment of the child and is made in response to a request from a clinician;

(2) is necessary to protect against a clear and substantial risk of imminent serious physical injury or death inflicted by the child on self or another;

(3) is determined by a clinician not to cause substantial harm to the child and a summary of the child's assessment, treatment plan, progress, discharge plan and other information essential to the child's treatment is made to a child's legal custodian or guardian ad litem;

(4) is to the primary caregiver of the child and the information disclosed was necessary for the continuity of the child's treatment in the judgment of the treating clinician who discloses the information;

(5) is to an insurer contractually obligated to pay part or all of the expenses relating to the treatment of the child at the residential facility. The information disclosed shall be limited to data identifying the child, 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 child, apart from information disclosed pursuant to this section, has not been disclosed to the insurer;

(6) is to a protection and advocacy representative 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; and

(7) is pursuant to a court order issued for good cause shown after notice to the child and the child's legal custodian and opportunity to be heard is given. Before issuing an order requiring disclosure, the court shall find that:

(a) other ways of obtaining the information are not available or would not be effective; and

(b) the need for the disclosure outweighs the potential injury to the child, the clinician-child relationship and treatment services.

E. A disclosure ordered by the court shall be limited to the information that is essential to carry out the purpose of the disclosure. Disclosure shall be limited to those persons whose need for the information forms the basis for the order. An order by the court shall include such other measures as are necessary to limit disclosure for the protection of the child, including sealing from public scrutiny the record of a proceeding for which disclosure of a child's record has been ordered.

F. An authorization given for the transmission or disclosure of confidential information shall not be effective unless it:

(1) is in writing and signed; and

(2) contains a statement of the child'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.

G. The child has a right of access to confidential information about the child and has the right to make copies of information about the child and 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 the statements or other documentation contain confidential information. Nothing in this subsection shall prohibit the denial of access to the records when a physician or other mental health or developmental disabilities professional believes and notes in the child's medical records that the disclosure would not be in the best interests of the child. In all cases, the child has the right to petition the court for an order granting access.

H. Information concerning a child 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. Notwithstanding the confidentiality provisions of the Delinquency Act and the Abuse and Neglect Act, information disclosed under this section shall not be re-released without the express consent of the child or legal custodian authorized under the Children's Mental Health and Developmental Disabilities Act to give consent and any other consent necessary for redisclosure in conformance with state and federal law, including consent that may be required from the professional or the facility that created the document.

I. Nothing in the Children's Mental Health and Developmental Disabilities Act shall limit the confidentiality rights afforded by federal statute or regulation.

J. 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."

### **Chapter 162 Section 25 Laws 2007**

Section 25. A new section of the Children's Code is enacted to read:

"SPECIAL COMMISSIONER.--A court may conduct the proceedings required by the Children's Mental Health and Developmental Disabilities Act or may, by general or special order, appoint a special commissioner to do so. The special commissioner shall be a licensed attorney. Upon conclusion of the hearing, the special commissioner shall file findings and recommendations with the court promptly."

### **Chapter 162 Section 26 Laws 2007**

Section 26. A new section of the Children's Code is enacted to read:

"TRANSPORTATION.--When a child is to be placed in a residential treatment or habilitation program or to be returned to the program during placement, the court ordering the placement or authorizing the return of the child may direct the sheriff, the New Mexico state police or other appropriate persons to furnish suitable transportation in order to effect the placement or return by contacting the department for directions as to the destination of the child."

### **Chapter 162 Section 27 Laws 2007**

Section 27. A new section of the Children's Code is enacted to read:

"VIOLATION OF A CHILD'S RIGHTS.--A child who believes that rights established by the Children's Mental Health and Developmental Disabilities Act or by the constitution of the United States or the constitution of New Mexico have been

violated shall have a right to petition the court for redress. The child shall be represented by counsel. The court shall grant relief as is appropriate, subject to the provisions of the Tort Claims Act."

## **Chapter 162 Section 28 Laws 2007**

Section 28. A new section of the Children's Code is enacted to read:

"COST OF CARE.--An indigent child may receive care and treatment at a state-operated facility without charge. The governing authorities of the facility may require payment for the cost of care and treatment from others pursuant to established fee schedules based on ability to pay."

## **Chapter 162 Section 29 Laws 2007**

Section 29. A new section of the Children's Code is enacted to read:

"RECOGNITION OF TRIBAL COURT INVOLUNTARY PLACEMENT ORDERS.--

A. Notwithstanding the provisions of any other law to the contrary, an involuntary placement order for a child issued by a tribal court shall be recognized and enforced by the district court for the judicial district in which the tribal court is located. The involuntary placement order shall be filed with the clerk of the district court. The tribal court, as the court of original jurisdiction, shall retain jurisdiction and authority over the child.

B. A child placed in an evaluation facility pursuant to the provisions of this section shall be subject to the continuing jurisdiction of the tribal court; provided that any decisions regarding discharge or release of the child from the evaluation facility shall be made by the administrator of that facility. Prior to discharging or releasing the child, the facility shall:

- (1) make custody arrangements with the child's legal custodian; and
- (2) establish a plan for the child's aftercare.

C. When an Indian child is placed in an evaluation facility pursuant to the provisions of this section, any outpatient treatment of the Indian child shall be provided in the same manner as treatment would be provided for any other child.

D. When an Indian child requires emergency treatment or habilitation, that treatment or habilitation shall be provided pursuant to the provisions of the Children's Mental Health and Developmental Disabilities Act.

E. An Indian child residing on or off a reservation, as a citizen of this state, shall have the same right to services available to other children of the state."

## **Chapter 162 Section 30 Laws 2007**

Section 30. TEMPORARY PROVISION.--In keeping with Section 8 of the Children's Mental Health and Developmental Disabilities Act, the department of health shall promulgate rules for the operation of a human rights committee charged with review and evaluation of a treatment plan that includes aversive intervention.

## **Chapter 162 Section 31 Laws 2007**

Section 31. REPEAL.--Sections 32A-6-1 through 32A-6-22 NMSA 1978 (being Laws 1995, Chapter 207, Sections 1 through 10 and 12 through 24, as amended) are repealed.

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House Bill 637, as amended

Approved April 2, 2007

# **LAWS 2007, CHAPTER 163**

AN ACT

RELATING TO HEALTH; LIMITING LIABILITY FOR A GOOD SAMARITAN WHO COMES TO THE AID OF A PERSON IN APPARENT CARDIAC ARREST; REVISING LANGUAGE IN THE CARDIAC ARREST RESPONSE ACT.

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

## **Chapter 163 Section 1 Laws 2007**

Section 1. Section 24-10C-3 NMSA 1978 (being Laws 1999, Chapter 94, Section 3) is amended to read:

"24-10C-3. DEFINITIONS.--As used in the Cardiac Arrest Response Act:

A. "automated external defibrillator" means a medical device heart monitor and defibrillator that:

(1) has received approval of its premarket modification filed pursuant to 21 U.S.C. 360(k), from the United States food and drug administration;

(2) is capable of recognizing cardiac arrest that will respond to defibrillation, ventricular fibrillation or rapid ventricular tachycardia, and is capable of determining whether defibrillation should be performed; and

(3) upon determining that defibrillation should be performed, automatically charges and is capable of delivering an electrical impulse to an individual's heart;

B. "automated external defibrillator program" means a program of trained targeted responders registered with the department and operating under the supervision of a physician medical director;

C. "defibrillation" means the administration of a controlled electrical charge to the heart to restore a viable cardiac rhythm;

D. "department" means the department of health;

E. "good Samaritan" means a person who lacks automated external defibrillator training but who has access to an automated external defibrillator and provides emergency automated external defibrillator services to a person in apparent cardiac arrest, provided that the good Samaritan:

(1) acts in good faith as an ordinary prudent person would have in the same or similar circumstances; and

(2) acts without compensation;

F. "physician" means a doctor of medicine or doctor of osteopathy who is licensed or otherwise authorized to practice medicine or osteopathic medicine in New Mexico; and

G. "trained targeted responder" means a person trained in the use of an automated external defibrillator under emergency cardiac care guidelines."

## **Chapter 163 Section 2 Laws 2007**

Section 2. Section 24-10C-4 NMSA 1978 (being Laws 1999, Chapter 94, Section 4) is amended to read:

"24-10C-4. PROTECTION OF PUBLIC SAFETY.--A person who acquires an automated external defibrillator shall ensure that:

A. a physician medical director oversees all aspects of the automated external defibrillator program, including training, emergency medical services coordination, protocol approval and automated external defibrillator deployment strategies, and that the physician medical director provides overall quality assurance and reviews each case in which the automated external defibrillator is used by the program;

B. the trained targeted responder receives appropriate training in cardiopulmonary resuscitation and in the use of an automated external defibrillator by a nationally recognized course in cardiopulmonary response and automated external

defibrillator use approved by the department or other training programs authorized by the department;

C. the defibrillator is maintained and tested according to the manufacturer's guidelines;

D. any person who renders emergency care or treatment on a person in cardiac arrest by using an automated external defibrillator activates the emergency medical system as soon as possible and reports any clinical use of the automated external defibrillator to the physician medical director;

E. the automated external defibrillator program is registered with the department; and

F. the local emergency medical services and local 911 agencies have been notified of the automated external defibrillator program."

### **Chapter 163 Section 3 Laws 2007**

Section 3. Section 24-10C-5 NMSA 1978 (being Laws 1999, Chapter 94, Section 5) is amended to read:

"24-10C-5. AUTHORITY.--A person may acquire an automated external defibrillator if the person has met all the requirements of Section 24-10C-4 NMSA 1978. Nothing in this section limits the right of a person to practice a health profession that the person is otherwise authorized to practice in accordance with the laws of New Mexico."

### **Chapter 163 Section 4 Laws 2007**

Section 4. Section 24-10C-6 NMSA 1978 (being Laws 1999, Chapter 94, Section 6) is amended to read:

"24-10C-6. EXEMPTION.--Nothing in the Cardiac Arrest Response Act precludes a physician from prescribing an automated external defibrillator to a patient for use by the patient's caregiver on an individual patient, and the use does not require the individual to function in an approved program."

### **Chapter 163 Section 5 Laws 2007**

Section 5. Section 24-10C-7 NMSA 1978 (being Laws 1999, Chapter 94, Section 7) is amended to read:

"24-10C-7. LIMITED IMMUNITY PROTECTIONS.--The following persons who render emergency care or treatment by the use of an automated external defibrillator pursuant to the provisions of the Cardiac Arrest Response Act shall not be subject to

civil liability, provided that they have acted with reasonable care and in compliance with the requirements of that act:

A. a physician who provides supervisory services pursuant to the Cardiac Arrest Response Act;

B. a person who provides training in cardiopulmonary resuscitation and use of automated external defibrillation;

C. a person who acquires an automated external defibrillator pursuant to the Cardiac Arrest Response Act;

D. the owner of the property or facility where the automated external defibrillator is located;

E. the trained targeted responder; and

F. a good Samaritan."

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House Bill 639, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 164**

### **AN ACT**

RELATING TO TAX ADMINISTRATION; IDENTIFYING TAX PROVISIONS SUBJECT TO THE TAX ADMINISTRATION ACT; PERMITTING DISCLOSURE OF CERTAIN RECORDS OR CREDITS THAT THE DEPARTMENT IS REQUIRED TO MAKE AVAILABLE FOR PUBLIC INSPECTION; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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

### **Chapter 164 Section 1 Laws 2007**

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 Tax Credit Act, film production tax credit, New Mexico filmmaker tax credit, Affordable Housing Tax Credit Act, high-wage jobs tax credit and Research and Development Small Business Tax Credit Act;
- (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 164 Section 2 Laws 2007**

Section 2. Section 7-1-8 NMSA 1978 (being Laws 1965, Chapter 248, Section 13, as amended by Laws 2005, Chapter 107, Section 1 and by Laws 2005, Chapter 108, Section 2 and also by Laws 2005, Chapter 109, Section 2) is amended to read:

"7-1-8. CONFIDENTIALITY OF RETURNS AND OTHER INFORMATION.--It is unlawful for an employee of the department or a former employee of the department to reveal to an individual other than another employee of the department information contained in the return of a taxpayer made pursuant to a law subject to administration and enforcement under the provisions of the Tax Administration Act or any other information about a taxpayer acquired as a result of the employee's employment by the department and not available from public sources, except:

A. to an authorized representative of another state; provided that the receiving state has entered into a written agreement with the department to use the information for tax purposes only and that the receiving state has enacted a confidentiality statute similar to this section to which the representative is subject;

B. to a representative of the secretary of the treasury or the secretary's delegate pursuant to the terms of a reciprocal agreement entered into with the federal government for exchange of the information;

C. to the multistate tax commission, the federation of tax administrators or their authorized representatives; provided that the information is used for tax purposes only and is disclosed by the multistate tax commission or the federation of tax administrators only to states that have met the requirements of Subsection A of this section;

D. to another jurisdiction pursuant to an international fuel tax agreement; provided that the information is used for tax purposes only;

E. to a district court, an appellate court or a federal court:

(1) in response to an order thereof in an action relating to taxes or an action for tax fraud or any other crime that may affect taxes due to the state to which the state is a party and in which the information sought is about a taxpayer who is party to the action and is material to the inquiry, in which case only that information may be required to be produced in court and admitted in evidence subject to court order protecting the confidentiality of the information and no more;

(2) in an action in which the department is attempting to enforce an act with which the department is charged or to collect a tax; or

(3) in any matter in which the department is a party and the taxpayer has put the taxpayer's own liability for taxes at issue, in which case only that information regarding the taxpayer who is party to the action may be produced, but this shall not prevent the disclosure of department policy or interpretation of law arising from circumstances of a taxpayer who is not a party;

F. to the taxpayer or to the taxpayer's authorized representative; provided, however, that nothing in this subsection shall be construed to require any employee to testify in a judicial proceeding except as provided in Subsection E of this section;

G. information obtained through the administration of a law not subject to administration and enforcement under the provisions of the Tax Administration Act to the extent that release of that information is not otherwise prohibited by law;

H. in a manner, for statistical purposes, that the information revealed is not identified as applicable to an individual taxpayer;

I. with reference to information concerning the tax on tobacco imposed by Sections 7-12-1 through 7-12-13, 7-12-15 and 7-12-17 NMSA 1978 to a committee of the legislature for a valid legislative purpose or to the attorney general for purposes of Section 6-4-13 NMSA 1978 and the master settlement agreement defined in Section 6-4-12 NMSA 1978;

J. to a transferee, assignee, buyer or lessor of a liquor license, the amount and basis of an unpaid assessment of tax for which the transferor, assignor, seller or lessee is liable;

K. to a purchaser of a business as provided in Sections 7-1-61 through 7-1-63 NMSA 1978, the amount and basis of an unpaid assessment of tax for which the purchaser's seller is liable;

L. to a municipality of this state upon its request for a period specified by that municipality within the twelve months preceding the request for the information by that municipality:

(1) the names, taxpayer identification numbers and addresses of registered gross receipts taxpayers reporting gross receipts for that municipality under the Gross Receipts and Compensating Tax Act or a local option gross receipts tax imposed by that municipality. The department may also release the information described in this paragraph quarterly or upon such other periodic basis as the secretary and the municipality may agree; and

(2) information indicating whether persons shown on a list of businesses located within that municipality furnished by the municipality have reported gross receipts to the department but have not reported gross receipts for that municipality under the Gross Receipts and Compensating Tax Act or a local option gross receipts tax imposed by that municipality.

The employees of municipalities receiving information as provided in this subsection shall be subject to the penalty contained in Section 7-1-76 NMSA 1978 if that information is revealed to individuals other than other employees of the municipality in question or the department;

M. to the commissioner of public lands for use in auditing that pertains to rentals, royalties, fees and other payments due the state under land sale, land lease or other land use contracts; the commissioner of public lands and employees of the commissioner are subject to the same provisions regarding confidentiality of information as employees of the department;

N. the department shall furnish, upon request by the child support enforcement division of the human services department, the last known address with date of all names certified to the department as being absent parents of children receiving public financial assistance. The child support enforcement division personnel shall use such information only for the purpose of enforcing the support liability of the absent parents and shall not use the information or disclose it for any other purpose; the child support enforcement division and its employees are subject to the provisions of this section with respect to any information acquired from the department;

O. the department shall furnish to the information systems division of the general services department, by electronic media, a database containing New Mexico personal income tax filers by county, which shall be updated quarterly. The database information shall be used only for the purpose of producing the random jury list for the selection of petit or grand jurors for the state courts pursuant to Section 38-5-3 NMSA 1978. The database shall not contain any financial information. If any information in the database is revealed by an employee of the administrative office of the courts or the information systems division to individuals other than employees of the administrative office of the

courts, the state courts, the information systems division or the department, the employee shall be subject to the penalty provisions of Section 7-1-76 NMSA 1978;

P. with respect to the tax on gasoline imposed by the Gasoline Tax Act, the department shall make available for public inspection at monthly intervals a report covering the number of gallons of gasoline and ethanol blended fuels received and deducted and the amount of tax paid by each person required to file a gasoline tax return or pay gasoline tax in the state of New Mexico;

Q. the identity of a rack operator, importer, blender, supplier or distributor and the number of gallons reported on returns required under the Gasoline Tax Act, Special Fuels Supplier Tax Act or Alternative Fuel Tax Act to a rack operator, importer, blender, distributor or supplier, but only when it is necessary to enable the department to carry out its duties under the Gasoline Tax Act, the Special Fuels Supplier Tax Act or the Alternative Fuel Tax Act;

R. the department shall release upon request only the names and addresses of all gasoline or special fuel distributors, wholesalers and retailers to the New Mexico department of agriculture, the employees of which are thereby subject to the penalty contained in Section 7-1-76 NMSA 1978 if that information is revealed to individuals other than employees of either the New Mexico department of agriculture or the department;

S. the department shall answer all inquiries concerning whether a person is or is not a registered taxpayer for tax programs that require registration, but nothing in this subsection shall be construed to allow the department to answer inquiries concerning whether a person has filed a tax return;

T. upon request of a municipality or county of this state, the department shall permit officials or employees of the municipality or county to inspect the records of the department pertaining to an increase or decrease to a distribution or transfer made pursuant to Section 7-1-6.15 NMSA 1978 for the purpose of reviewing the basis for the increase or decrease. The municipal or county officials or employees receiving information provided in this subsection shall not reveal that information to any person other than another employee of the municipality or the county, the department or a district court, an appellate court or a federal court in a proceeding relating to a disputed distribution and in which both the state and the municipality or county are parties. Information provided pursuant to provisions of this subsection that is revealed other than as provided in this subsection shall subject the person revealing the information to the penalty contained in Section 7-1-76 NMSA 1978;

U. to a county of this state that has in effect a local option gross receipts tax imposed by the county upon its request for a period specified by that county within the twelve months preceding the request for the information by that county:

(1) the names, taxpayer identification numbers and addresses of registered gross receipts taxpayers reporting gross receipts either for that county in the case of a local option gross receipts tax imposed on a countywide basis or only for the areas of that county outside of any incorporated municipalities within that county in the case of a county local option gross receipts tax imposed only in areas of the county outside of any incorporated municipalities. The department may also release the information described in this paragraph quarterly or upon such other periodic basis as the secretary and the county may agree;

(2) in the case of a local option gross receipts tax imposed by a county on a countywide basis, information indicating whether persons shown on a list of businesses located within the county furnished by the county have reported gross receipts to the department but have not reported gross receipts for that county under the Gross Receipts and Compensating Tax Act or a local option gross receipts tax imposed by that county on a countywide basis; and

(3) in the case of a local option gross receipts tax imposed by a county only on persons engaging in business in that area of the county outside of incorporated municipalities, information indicating whether persons on a list of businesses located in that county outside of the incorporated municipalities but within that county furnished by the county have reported gross receipts to the department but have not reported gross receipts for that county outside of the incorporated municipalities within that county under the Gross Receipts and Compensating Tax Act or a local option gross receipts tax imposed by the county only on persons engaging in business in that county outside of the incorporated municipalities.

The officers and employees of counties receiving information as provided in this subsection shall be subject to the penalty contained in Section 7-1-76 NMSA 1978 if the information is revealed to individuals other than other officers or employees of the county in question or the department;

V. to authorized representatives of an Indian nation, tribe or pueblo, the territory of which is located wholly or partially within New Mexico, pursuant to the terms of a reciprocal agreement entered into with the Indian nation, tribe or pueblo for the exchange of that information for tax purposes only; provided that the Indian nation, tribe or pueblo has enacted a confidentiality statute similar to this section;

W. information with respect to the taxes or tax acts administered pursuant to Subsection B of Section 7-1-2 NMSA 1978, except that:

(1) information for or relating to a period prior to July 1, 1985 with respect to Sections 7-25-1 through 7-25-9 and 7-26-1 through 7-26-8 NMSA 1978 may be released only to a committee of the legislature for a valid legislative purpose;

(2) except as provided in Paragraph (3) of this subsection, contracts and other agreements between the taxpayer and other parties and the proprietary

information contained in those contracts and agreements shall not be released without the consent of all parties to the contract or agreement; and

(3) audit workpapers and the proprietary information contained in the workpapers shall not be released except to:

(a) the minerals management service of the United States department of the interior, if production occurred on federal land;

(b) a person having a legal interest in the property that is subject to the audit;

(c) a purchaser of products severed from a property subject to the audit; or

(d) the authorized representative of any of the persons in Subparagraphs (a) through (c) of this paragraph. This paragraph does not prohibit the release of proprietary information contained in the workpapers that is also available from returns or from other sources not subject to the provisions of this section;

X. information with respect to the taxes, surtaxes, advance payments or tax acts administered pursuant to Subsection C of Section 7-1-2 NMSA 1978;

Y. to the public regulation commission, information with respect to the Corporate Income and Franchise Tax Act required to enable the commission to carry out its duties;

Z. to the state racing commission, information with respect to the state, municipal and county gross receipts taxes paid by racetracks;

AA. upon request of a corporation authorized to be formed under the Educational Assistance Act, the department shall furnish the last known address and the date of that address of every person certified to the department as an absent obligor of an educational debt due and owed to the corporation or that the corporation has lawfully contracted to collect. The corporation and its officers and employees shall use that information only to enforce the educational debt obligation of the absent obligors and shall not disclose that information or use it for any other purpose;

BB. a decision and order made by a hearing officer pursuant to Section 7-1-24 NMSA 1978 with respect to a protest filed with the secretary on or after July 1, 1993;

CC. information required by a provision of the Tax Administration Act to be made available to the public by the department;

DD. upon request by the Bernalillo county metropolitan court, the department shall furnish the last known address and the date of that address for every person the

court certifies to the department as a person who owes fines, fees or costs to the court or who has failed to appear pursuant to a court order or a promise to appear;

EE. upon request by a magistrate court, the department shall furnish the last known address and the date of that address for every person the court certifies to the department as a person who owes fines, fees or costs to the court or who has failed to appear pursuant to a court order or a promise to appear;

FF. to the national tax administration agencies of Mexico and Canada; provided the agency receiving the information has entered into a written agreement with the department to use the information for tax purposes only and is subject to a confidentiality statute similar to this section;

GG. to a district attorney, a state district court grand jury or federal grand jury for an investigation of or proceeding related to an alleged criminal violation of the tax laws;

HH. to a third party subject to a subpoena or levy issued pursuant to the provisions of the Tax Administration Act, the identity of the taxpayer involved, the taxes or tax acts involved and the nature of the proceeding;

II. to the gaming control board, tax returns of license applicants and their affiliates as provided in Subsection E of Section 60-2E-14 NMSA 1978;

JJ. any written ruling on questions of evidence or procedure made by a hearing officer pursuant to Section 7-1-24 NMSA 1978; provided that the name and identification number of the taxpayer requesting the ruling shall not be disclosed;

KK. to representatives of the workers' compensation administration, authorized by the director of the workers' compensation administration for this purpose, to facilitate the identification of taxpayers that are delinquent or noncompliant in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA 1978;

LL. to the secretary of labor or the secretary's delegate for use in enforcement of unemployment insurance collections pursuant to the terms of a reciprocal agreement entered into with the secretary of labor for exchange of information; the secretary of labor and employees of the labor department are subject to the provisions regarding confidentiality of information contained in the Tax Administration Act;

MM. information that the department is authorized by the Tax Administration Act to release to a local body that licenses professions or occupations pursuant to Chapter 36, Article 2 NMSA 1978 or Chapter 61 NMSA 1978; and

NN. upon request for inspection by the public pursuant to Section 7-1-29 NMSA 1978, the department shall furnish the taxpayer name, refund or credit amount, tax program or business tax credit and the date the refund or credit was issued; nothing in this subsection shall be construed to require the release of information that would

violate an agreement between the state and the federal internal revenue service for sharing of information or any provision or rule of the federal Internal Revenue Code to which a state is subject."

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House Bill 667, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 165**

AN ACT

RELATING TO CHILD SUPPORT; REQUIRING CERTAIN PARENTS TO PROVIDE HEALTH INSURANCE.

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

### **Chapter 165 Section 1 Laws 2007**

Section 1. Section 27-1-14 NMSA 1978 (being Laws 1997, Chapter 237, Section 34) is amended to read:

"27-1-14. ENFORCEMENT OF ORDERS FOR HEALTH CARE.--

A. All Title IV-D agency cases shall include a provision for the health care coverage of each child. In the case in which a medical support obligor parent provides such coverage and changes employment and the new employer provides such coverage, the state Title IV-D agency shall transfer notice of the provision to the employer, which notice shall operate to enroll each child in the medical support obligor's health plan unless the medical support obligor successfully contests the notice.

B. For purposes of this section, "medical support obligor" means a person owing a duty to provide health support, or against whom a proceeding for the enforcement of such a duty of support is commenced or for registration of a support order that includes provisions for such support for each minor child."

### **Chapter 165 Section 2 Laws 2007**

Section 2. Section 40-4C-2 NMSA 1978 (being Laws 1990, Chapter 78, Section 2, as amended) is amended to read:

"40-4C-2. PURPOSE.--To ensure that children have access to quality medical care, it is the purpose of the Mandatory Medical Support Act to require parents to

provide or purchase health insurance coverage for their minor children when such coverage is available."

## **Chapter 165 Section 3 Laws 2007**

Section 3. Section 40-4C-3 NMSA 1978 (being Laws 1990, Chapter 78, Section 3, as amended) is amended to read:

"40-4C-3. DEFINITIONS.--As used in the Mandatory Medical Support Act:

- A. "court" means any district court ordering support by a medical support obligor;
- B. "department" means the human services department;
- C. "employer" means an individual, organization, agency, business or corporation hiring a medical support obligor for pay;
- D. "health insurance coverage" means those coverages generally associated with a medical plan of benefits, which may include dental insurance, but not including medicaid coverage authorized by Title 19 of the Social Security Act and administered by the department;
- E. "insurer" means an employment-related or other group health care insurance plan, a health maintenance organization, a nonprofit health care plan or other type of health care insurance plan under which medical or dental services are provided, regardless of service delivery mechanism;
- F. "medical support obligee" means a person to whom a duty of medical support is owed or a person, including the department, who has commenced a proceeding for enforcement of a duty to provide health support for each minor child or for registration of a support order that includes a provision for such support for each minor child;
- G. "medical support obligor" means a person owing a duty to provide health support or against whom a proceeding for the enforcement of such a duty of support is commenced or for registration of a support order that includes provisions for such support for each minor child;
- H. "minor child" means a child younger than eighteen years of age who has not been emancipated; and
- I. "national medical support notice" means a notice to an employer that an employee's child must be covered by the employment-related group health and dental care insurance plan pursuant to a court order."

## **Chapter 165 Section 4 Laws 2007**

Section 4. Section 40-4C-4 NMSA 1978 (being Laws 1990, Chapter 78, Section 4, as amended) is amended to read:

"40-4C-4. MEDICAL SUPPORT--ORDER.--

A. The court shall determine a parent or both parents to be a medical support obligor based on the following:

(1) the availability of health insurance coverage that meets or exceeds the minimum standards required under the Mandatory Medical Support Act; and

(2) the availability of health insurance coverage through an employment-related or other group health and dental care insurance plan.

B. When a medical support obligor is ordered to provide health insurance coverage, the medical support obligor shall properly name each minor child on behalf of whom support is owed as an eligible dependent on such insurance.

C. The court may consider the impact of the cost of health insurance coverage on the payment of the base child support amounts in determining whether such insurance coverage shall be ordered.

D. The court may order the medical support obligor to obtain health insurance coverage for each minor child to whom support is owed if the court finds that health insurance coverage for each minor child is not available to the medical support obligor through an employment-related or other group health care insurance plan.

E. The court shall require the medical support obligor to be liable for all or a portion of the medical and dental expenses of each minor child that are not covered by the required health insurance coverage if:

(1) the court finds that the health insurance coverage required to be obtained by a medical support obligor does not pay all the reasonable and necessary medical or dental expenses of each minor child; and

(2) the court finds that a medical support obligor has the financial resources to contribute to the payment of these medical or dental expenses.

F. The court shall require the medical support obligor to provide health insurance coverage or dental insurance coverage for the benefit of the medical support obligee if it is available at no additional cost to the medical support obligor.

G. The court in any proceeding for the establishment, enforcement or modification of a child support obligation may modify an existing order of support or

establish child support, as applicable, for each minor child to incorporate the provisions for medical and dental support ordered pursuant to the Mandatory Medical Support Act."

## **Chapter 165 Section 5 Laws 2007**

Section 5. Section 40-4C-5 NMSA 1978 (being Laws 1990, Chapter 78, Section 5) is amended to read:

"40-4C-5. ORDER--PROOF OF COMPLIANCE--NOTICE.--

A. The medical support obligor shall provide to the medical support obligee within thirty days of receipt of effective notice of a court order for health insurance coverage pursuant to the Mandatory Medical Support Act written proof of the medical support obligor's compliance with that order. Compliance means either that the health insurance coverage has been obtained or that a correct and complete application for such coverage has been made.

B. The medical support obligee shall forward a copy of the court order for health insurance coverage issued pursuant to the Mandatory Medical Support Act to the medical support obligor's employer or union only when ordered to do so by the court or when:

(1) the medical support obligor fails to provide written proof of compliance with the court order to the medical support obligee within thirty days of the medical support obligor's receipt of effective written notice of the court order;

(2) the medical support obligee serves by mail at the medical support obligor's last known post office address written notice on the medical support obligor of the medical support obligee's intent to enforce the order; and

(3) the medical support obligor fails to provide within fifteen days after the date the medical support obligee mailed the notice in Paragraph (2) of this subsection written proof to the medical support obligee that the medical support obligor has obtained the health insurance coverage ordered by the court or has applied for such coverage.

C. Upon receipt of a court order for health-insurance coverage pursuant to the Mandatory Medical Support Act, the employer or union shall forward a copy of the order to the health insurer or dental insurer, as applicable."

## **Chapter 165 Section 6 Laws 2007**

Section 6. Section 40-4C-6 NMSA 1978 (being Laws 1990, Chapter 78, Section 6, as amended) is amended to read:

"40-4C-6. OBLIGATIONS--EMPLOYERS, UNIONS AND INSURERS--PLAN.--

A. Upon receipt of a national medical support notice or the court order for health insurance coverage pursuant to Section 40-4C-5 NMSA 1978 or upon application of the medical support obligor pursuant to the court order, the employer or union shall enroll the minor child as an eligible dependent in the health insurance plan and withhold any required premium from the medical support obligor's income or wages. If more than one health and dental insurance plan is offered by the employer, union or insurer, the minor child shall be enrolled in the plan in which the medical support obligor is enrolled. If the medical support obligor is not enrolled in a plan, the child shall be enrolled in a plan that meets the minimum coverage criteria required pursuant to the Mandatory Medical Support Act. If the medical support obligor is not enrolled in a plan, the premiums charged for the child or children of the medical support obligor shall be those charged for the enrollment of the medical support obligor only.

B. In any instance in which the medical support obligor is required by a court order to provide health insurance coverage for each minor child and the medical support obligor is eligible for health insurance coverage through an employment-related or other group health care insurance plan, the employer, union or insurer shall do the following:

(1) permit the medical support obligor to enroll for health insurance coverage each minor child who is otherwise eligible for coverage without regard to any enrollment season restrictions;

(2) enroll each minor child for health insurance coverage if the medical support obligor fails to enroll each minor child upon application by the medical support obligee or the department;

(3) not disenroll or eliminate coverage of any minor child so enrolled unless:

(a) the employer is provided with satisfactory written evidence that the court order is no longer in effect;

(b) the minor child is or will be enrolled in comparable health coverage that meets the coverage criteria required pursuant to the Mandatory Medical Support Act and that will take effect not later than the effective date of the disenrollment;

(c) the medical support obligor has terminated employment; or

(d) the employer has eliminated health insurance coverage for all of its employees; and

(4) withhold from the medical support obligor's compensation the medical support obligor's share, if any, of premiums for health insurance coverage and to pay the share of premiums to the insurer, unless otherwise provided in law or regulation.

C. In those instances in which the medical support obligor fails or refuses to execute any document necessary to enroll a minor child in a health insurance plan ordered by the court, the required information and authorization may be provided by the department or the custodial parent or guardian of the minor child.

D. Information and authorization provided by the department or the custodial parent or guardian of a minor child shall be valid for the purpose of meeting enrollment requirements of the health insurance plan and shall not affect the obligation of the employer or union and the insurer to enroll the minor child in the health insurance plan for which other eligibility, enrollment, underwriting terms and other requirements are met. In instances in which a minor child is insured through the medical support obligor, the insurer shall provide all information to the medical support obligee that may be helpful or necessary for the minor child to obtain benefits.

E. A minor child that a medical support obligor is required to cover as an eligible dependent pursuant to the Mandatory Medical Support Act shall be considered for insurance coverage purposes as a dependent of the medical support obligor until the child is emancipated or until further order of the court.

F. In instances in which a minor child is insured through a medical support obligor, the insurer is prohibited from denying health insurance coverage of the minor child on the grounds that the minor child was born out of wedlock, that the minor child is not claimed as a dependent on the medical support obligor's federal income tax return or that the minor child does not reside with the medical support obligor or reside in the insurer's service area.

G. In instances in which a minor child is insured through a medical support obligor, the insurer is prohibited from imposing requirements on the department that are different from requirements applicable to an agent or assignee of any other individual covered by the insurer.

H. In instances in which a minor child is insured through a medical support obligor who is a noncustodial parent, the insurer shall permit the custodial parent or health care provider, with the approval of the custodial parent, to submit claims for covered services without the approval of the medical support obligor. The insurer shall make payments on submitted claims directly to the custodial parent or the health care provider.

I. If the medical support obligor is terminated, the employer shall notify the department of the termination."

## **Chapter 165 Section 7 Laws 2007**

Section 7. Section 40-4C-10 NMSA 1978 (being Laws 1990, Chapter 78, Section 10, as amended) is amended to read:

"40-4C-10. EMPLOYER, UNION OR INSURER NOTICE.--When an order for health insurance coverage pursuant to the Mandatory Medical Support Act is in effect, upon termination of the medical support obligor's employment or upon termination of the insurance coverage, the employer, union or insurer shall make a good faith effort to notify the department and the other parent within ten days of the termination date with notice of conversion privileges."

## **Chapter 165 Section 8 Laws 2007**

Section 8. Section 40-4C-11 NMSA 1978 (being Laws 1990, Chapter 78, Section 11, as amended) is amended to read:

"40-4C-11. RELEASE OF INFORMATION.--When an order for health insurance coverage pursuant to the Mandatory Medical Support Act is in effect, the medical support obligor's employer, union or insurer shall release to the other parent, upon request, information on such coverage, including the name of the insurer."

## **Chapter 165 Section 9 Laws 2007**

Section 9. Section 40-4C-12 NMSA 1978 (being Laws 1990, Chapter 78, Section 12, as amended) is amended to read:

"40-4C-12. MEDICAL SUPPORT OBLIGOR LIABILITY.--

A. A medical support obligor who fails to maintain the health insurance coverage for the benefit of a minor child as ordered pursuant to the Mandatory Medical Support Act shall be liable to the department or the other parent for any medical and dental expenses incurred from the date of the court order.

B. A medical support obligor who receives payment from a third party for the costs of medical or dental services provided to a minor child and who fails to use the payment to reimburse the department is liable to the department to the extent of the department's payment for the services. The department is authorized to intercept the obligor's tax refund, if the medical support obligor is a noncustodial parent, or use other means of enforcement available to the department to recoup amounts paid. Claims for current or past due child support take priority over any claims made pursuant to this subsection. Failure to maintain health insurance coverage as ordered constitutes a showing of increased need and provides a basis for modification of the medical support obligor's child support order.

C. A medical support obligor is required to provide the department with the following information concerning health insurance coverage:

- (1) medical support obligor's name and tax identification number;
- (2) type of coverage (single or family);

(3) name, address and identifying number of health insurance coverage;

(4) name and tax identification number of other individuals who are provided health insurance coverage by the medical support obligor;

(5) effective period of coverage; and

(6) name, address and the tax identification number of the employer."

## **Chapter 165 Section 10 Laws 2007**

Section 10. Section 40-4C-13 NMSA 1978 (being Laws 1990, Chapter 78, Section 13, as amended) is amended to read:

"40-4C-13. DEPARTMENT--DUTIES.--The department shall pursue the establishment and enforcement of an order for health insurance coverage when a minor child receives public assistance or medicaid or upon application of a custodial or noncustodial parent to the department and payment by the custodial or noncustodial parent of fees required by the department."

## **Chapter 165 Section 11 Laws 2007**

Section 11. Section 40-4C-14 NMSA 1978 (being Laws 1990, Chapter 78, Section 14) is amended to read:

"40-4C-14. ENFORCEMENT.--All remedies available for the collection and enforcement of child support apply to medical support ordered pursuant to the Mandatory Medical Support Act. For the purpose of enforcement, the costs of individual or group health or hospitalization coverage or liabilities established pursuant to Section 40-4C-12 NMSA 1978 shall be included in a medical support judgment."

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House Bill 694

with certificate of correction

Approved April 2, 2007

# **LAWS 2007, CHAPTER 166**

AN ACT

RELATING TO PROFESSIONAL AND OCCUPATIONAL LICENSURE; CHANGING THE SCOPES OF PRACTICE; REVISING REQUIREMENTS FOR LICENSURE;

AMENDING AND ENACTING SECTIONS OF THE COUNSELING AND THERAPY PRACTICE ACT.

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

**Chapter 166 Section 1 Laws 2007**

Section 1. Section 61-9A-5 NMSA 1978 (being Laws 1993, Chapter 49, Section 5, as amended) is amended to read:

"61-9A-5. SCOPES OF PRACTICE.--

A. For the purpose of the Counseling and Therapy Practice Act, a person is practicing as a professional mental health counselor, professional clinical mental health counselor, marriage and family therapist, professional art therapist, registered independent mental health counselor, registered mental health counselor, licensed mental health counselor, licensed associate marriage and family therapist, alcohol and drug abuse counselor, alcohol abuse counselor, drug abuse counselor or substance abuse associate if the person advertises, offers to practice, is employed in a position described as professional mental health counselor, professional clinical mental health counselor, marriage and family therapist, professional art therapist, registered independent mental health counselor, alcohol and drug abuse counselor, alcohol abuse counselor, drug abuse counselor or substance abuse counselor associate, or holds out to the public or represents in any manner that the person is licensed or registered to practice as a counselor or therapist enumerated in this section in this state.

B. "Practice of professional clinical mental health counseling" means the application of mental health, psychotherapeutic and human development principles through a therapeutic relationship to:

(1) achieve the mental, emotional, physical, social, moral, educational, spiritual or career-related development and adjustment of the client throughout the client's life;

(2) diagnose, evaluate, prevent and treat mental, emotional or behavioral disorders and associated distresses that interfere with mental health;

(3) conduct appraisal, assessments and evaluations to establish treatment goals and objectives; and

(4) plan, implement and evaluate treatment plans using counseling treatment interventions and strategies.

C. "Practice of professional art therapy" means the licensed practice of counseling or therapy services to individuals, families or groups, of services that use art media as a means of expression and communication to:

(1) achieve the mental, emotional, physical, social, moral, educational, spiritual or career-related development and adjustment of the client throughout the client's life;

(2) diagnose, evaluate, prevent and treat mental, emotional or behavioral disorders and associate distresses that interfere with mental health;

(3) conduct appraisal, assessments and evaluations to establish treatment goals and objectives; and

(4) plan, implement and evaluate treatment plans using counseling or therapy treatment interventions and strategies.

D. "Practice of marriage and family therapy" means the licensed practice of marriage and family therapy services delivered to persons, couples and families treated singly or in groups within the context of family systems to:

(1) achieve the mental, emotional, physical, social, moral, educational, spiritual or career-related development and adjustment of the client throughout the client's life;

(2) diagnose, evaluate, prevent and treat mental, emotional or behavioral disorders and associate distresses that interfere with mental health;

(3) conduct appraisal, assessments and evaluations to establish treatment goals and objectives; and

(4) plan, implement and evaluate treatment plans using marriage and family therapy treatment interventions and strategies.

E. "Practice of licensed professional mental health counselor, licensed mental health counselor, registered independent counselor and licensed associate marriage and family therapist under an appropriate clinical supervisor" consists of rendering counseling services, which may include evaluation, assessment, consultation, diagnosing, development of treatment plans, case management counseling referral, appraisal, crisis intervention education, reporting and record keeping to individuals, couples, families or groups as defined by rule.

F. The scopes of practice of alcohol and drug abuse counseling, or both, consists of rendering treatment and intervention services specific to alcohol and other drug use disorders to persons, couples, families or groups. The services may include evaluation, assessment, diagnosis of chemical abuse and chemical dependency disorders only, consultation, development of treatment plans, case management-counseling, referral, appraisal, crisis intervention, education, reporting and record keeping. Nothing in this scope of practice shall be construed as preventing licensed alcohol and drug abuse counselors from providing screening and referrals for mental health disorders. However,

assessment, treatment and diagnosis for such disorders is not within the scope of practice of this license. The practice of these activities will be limited to the individual's level of training, education and supervised experience. The alcohol and drug abuse counselor may provide therapeutic services that may include treatment of clients with co-occurring disorders or dual diagnosis in an integrated behavioral health setting in which a multidisciplinary team has developed a multidisciplinary treatment plan that is co-authorized by an independently licensed counselor or therapist. The treatment of a mental health disorder shall be supervised by an independently licensed counselor or therapist.

G. The scope of practice of a substance abuse associate under the supervision by an appropriate supervisor is limited to supervised work in a public or private institution. The associate may be involved in taking social histories or conducting home studies. The associate utilizes the basic problem-solving process of gathering information, assessing that information at a beginning professional level and developing an intervention plan. The associate may implement the plan and conduct follow-ups pertaining specifically to alcohol and drug abuse counseling. The associate may provide client education and assist a licensed counselor-therapist with group or individual counseling sessions. A substance abuse associate shall not practice independently as a private practitioner."

## **Chapter 166 Section 2 Laws 2007**

Section 2. Section 61-9A-13 NMSA 1978 (being Laws 1993, Chapter 49, Section 13, as amended) is amended to read:

### **"61-9A-13. PROFESSIONAL ART THERAPIST--REQUIREMENTS FOR LICENSURE.--**

A. The board shall issue a license as a professional art therapist to a person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

- (1) has reached the age of twenty-one;
- (2) demonstrates professional competency by passing an examination as prescribed by the board;
- (3) holds a master's or doctoral degree in art therapy, counseling or counseling-related field from an accredited institution or nationally approved art therapy program with a total of no less than forty-eight graduate semester hours or seventy-two quarter hours in the art therapy core curriculum;
- (4) meets the art therapy core curriculum as defined by rule;

(5) has completed a minimum of two years post-graduate professional experience, three thousand client contact hours and one hundred hours of post-graduate face-

to-face experience under appropriate supervision. Seven hundred clinical client contact hours may be from the applicant's internship or practicum program beyond the requirements in Paragraph (3) of this subsection. Supervision shall be under a New Mexico-licensed professional art therapist or certified board therapist for at least fifty percent of the working hours; and

(6) is of good moral character with conduct consistent with the code of ethics.

B. Effective July 1, 2005, applicants must meet the art therapy core curriculum, as defined by rule."

### **Chapter 166 Section 3 Laws 2007**

Section 3. Section 61-9A-14.2 NMSA 1978 (being Laws 1999, Chapter 161, Section 15, as amended) is amended to read:

"61-9A-14.2. ALCOHOL AND DRUG ABUSE COUNSELOR--REQUIREMENTS FOR LICENSURE.--Effective July 1, 2005, the board shall license as an alcohol and drug abuse counselor a person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant, as defined by rule:

- A. is of good moral character with conduct consistent with the code of ethics;
- B. has reached the age of twenty-one;
- C. demonstrates professional competency by passing the required examinations prescribed by the board; and
- D. has one of the following combinations of education and experience:

(1) an associate degree in counseling, a counseling-related field or a substance abuse-related field from an accredited institution, and education and training that includes two hundred seventy-six clock hours with ninety hours in each of the fields of alcohol and drug abuse counseling, six hours of professional ethics, three years and three thousand client contract hours under appropriate supervision of experience in the practice of alcohol and drug abuse counseling and two hundred hours of face-to-face supervision;

(2) a baccalaureate degree in counseling, a counseling-related field or a substance abuse-related field, as defined by rule, from an accredited institution and

education and training that includes two hundred seventy-six clock hours with ninety hours in each of the fields of alcohol and drug abuse counseling and six hours of professional ethics, two years and two thousand client contact hours under appropriate supervision of experience in the practice of alcohol and drug abuse counseling and one hundred hours of face-to-face supervision; or

(3) a master's degree in counseling, a counseling-related field or a substance abuse-related field, as defined by rule, from an accredited institution, and education and training that includes two hundred seventy-six clock hours with ninety hours in each of the fields of alcohol and drug abuse counseling and six hours of professional ethics, one year and one thousand client contact hours under appropriate supervision of experience in the practice of alcohol and drug abuse counseling and fifty hours of face-to-face supervision hours."

## **Chapter 166 Section 4 Laws 2007**

Section 4. A new Section 61-9A-14.3 NMSA 1978 is enacted to read:

"61-9A-14.3. ALCOHOL AND DRUG ABUSE COUNSELOR--REQUIREMENTS FOR GRANDFATHERED LICENSURE.--

A. Effective July 1, 2007 through July 1, 2010, the board shall license as an alcohol and drug abuse counselor a person who holds a current certified alcohol and drug abuse counselor certification issued between July 1, 1996 and July 1, 2010 and files a completed application accompanied by the required fees and submits satisfactory evidence that the applicant:

(1) is of good moral character with conduct consistent with the code of ethics;

(2) has reached the age of twenty-one;

(3) has submitted evidence of having participated in a total of six thousand client contact hours and three hundred supervised face-to-face hours; and

(4) has completed two hundred seventy-six clock hours of education or training that includes ninety hours in each area of the fields of alcohol and drug abuse counseling and six hours of training in professional ethics acquired within two years of receipt of the application.

B. An applicant who meets the requirements of Subsection A of this section will not be required to complete an examination."

Approved April 2, 2007

## **LAWS 2007, CHAPTER 167**

AN ACT

RELATING TO TAXATION; PROVIDING A PROPERTY TAX EXEMPTION FOR VETERANS' ORGANIZATIONS.

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

### **Chapter 167 Section 1 Laws 2007**

Section 1. A new section of Chapter 7, Article 37 NMSA 1978 is enacted to read:

"VETERANS' ORGANIZATION EXEMPTION.--The property of a veterans' organization chartered by the United States congress and that is used by a local, state or federal governmental entity for events or by nonprofit community organizations or other veterans' organizations is exempt from property taxation. The exemption provided by this section may be referred to as the "veterans' organization exemption". The veterans' organization exemption shall be applied only if claimed and allowed pursuant to Section 7-

38-17 NMSA 1978 and the rules of the department. The veterans' services department shall assist the taxation and revenue department and the county assessors in determining which veterans' organizations qualify for the veterans' organization exemption."

### **Chapter 167 Section 2 Laws 2007**

Section 2. Section 7-38-17 NMSA 1978 (being Laws 1973, Chapter 258, Section 57, as amended) is amended to read:

"7-38-17. CLAIMING EXEMPTIONS--REQUIREMENTS--PENALTIES.--

A. Subject to the requirements of Subsection E of this section, head-of-family exemptions, veteran exemptions, disabled veteran exemptions or veterans' organization exemptions claimed and allowed in a tax year need not be claimed for subsequent tax years if there is no change in eligibility for the exemption nor any change in ownership of the property against which the exemption was claimed. Head-of-family, veteran and veterans' organization exemptions allowable under this subsection shall be applied automatically by county assessors in the subsequent tax years.

B. Other exemptions of real property specified under Section 7-36-7 NMSA 1978 for nongovernmental entities shall be claimed in order to be allowed. Once such

exemptions are claimed and allowed for a tax year, they need not be claimed for subsequent tax years if there is no change in eligibility. Exemptions allowable under this subsection shall be applied automatically by county assessors in subsequent tax years.

C. Except as set forth in Subsection H of this section, an exemption required to be claimed under this section shall be applied for no later than thirty days after the mailing of the county assessor's notices of valuation pursuant to Section 7-38-20 NMSA 1978 in order for it to be allowed for that tax year.

D. A person who has had an exemption applied to a tax year and subsequently becomes ineligible for the exemption because of a change in the person's status or a change in the ownership of the property against which the exemption was applied shall notify the county assessor of the loss of eligibility for the exemption by the last day of February of the tax year immediately following the year in which loss of eligibility occurs.

E. Exemptions may be claimed by filing proof of eligibility for the exemption with the county assessor. The proof shall be in a form prescribed by regulation of the department. Procedures for determining eligibility of claimants for any exemption shall be prescribed by regulation of the department, and these regulations shall include provisions for requiring the veterans' services department to issue certificates of eligibility for veteran exemptions and veterans' organization exemptions in a form and with the information required by the department. The regulations shall also include verification procedures to assure that veteran exemptions in excess of the amount authorized under Section 7-37-5 NMSA 1978 are not allowed as a result of multiple claiming in more than one county or claiming against more than one property in a single tax year.

F. The department shall consult and cooperate with the veterans' services department in the development, adoption and promulgation of regulations under Subsection E of this section. The veterans' services department shall comply with the promulgated regulations. The veterans' services department shall collect a fee of five dollars (\$5.00) for the issuance of a duplicate certificate of eligibility to a veteran or to a veterans' organization.

G. A person who violates the provisions of this section by intentionally claiming and receiving the benefit of an exemption to which the person is not entitled or who fails to comply with the provisions of Subsection D of this section is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000). A county assessor or the assessor's employee who knowingly permits a claimant for an exemption to receive the benefit of an exemption to which the claimant is not entitled is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) and shall also be automatically removed from office or dismissed from employment upon conviction under this subsection.

H. A veteran or the veteran's unmarried surviving spouse who became eligible to receive a property tax exemption due to the expansion of the class of eligible veterans

resulting from approval by the electorate in November 2004 of an amendment to Article 8, Section 5 of the constitution of New Mexico shall apply at the time the veteran or the veteran's unmarried surviving spouse applies for the 2005 veteran exemption, to the county assessor of the county in which the property of the veteran or the veteran's unmarried surviving spouse is located to have the veteran exemptions for the 2004 and 2005 property tax years applied to the 2005 taxable value of the property. The same form of documentation required for a veteran's property exemption for property tax year 2005 is required to be presented to the county assessor for property tax year 2004."

## **Chapter 167 Section 3 Laws 2007**

Section 3. CONTINGENT EFFECTIVE DATE.--The provisions of this act shall become effective upon certification by the secretary of state that the constitution of New Mexico has been amended as proposed by a joint resolution of the first session of the forty-eighth legislature entitled, "A JOINT RESOLUTION PROPOSING AN AMENDMENT TO ARTICLE 8 OF THE CONSTITUTION OF NEW MEXICO TO PROVIDE A PROPERTY TAX EXEMPTION FOR PROPERTY OF A VETERANS' ORGANIZATION CHARTERED BY THE UNITED STATES CONGRESS AND USED BY A LOCAL, STATE OR FEDERAL GOVERNMENTAL ENTITY FOR EVENTS OR BY NONPROFIT COMMUNITY ORGANIZATIONS OR OTHER VETERANS' ORGANIZATIONS".

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House Bill 719, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 168**

AN ACT

RELATING TO TAXATION; INCREASING THE DISTRIBUTION FROM THE TAX ADMINISTRATION SUSPENSE FUND TO THE RETIREE HEALTH CARE FUND; PROVIDING FOR A STUDY OF ISSUES CONCERNING THE RETIREE HEALTH CARE FUND; MAKING AN APPROPRIATION.

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

## **Chapter 168 Section 1 Laws 2007**

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

"DISTRIBUTION--RETIREE HEALTH CARE FUND.--In addition to the distribution made pursuant to Section 7-1-6.30 NMSA 1978, for the period beginning

July 1, 2007 and ending June 30, 2010, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the retiree health care fund in the amount of two hundred fifty thousand dollars (\$250,000)."

## **Chapter 168 Section 2 Laws 2007**

### Section 2. RETIREE HEALTH CARE FUND--STUDY--APPROPRIATION.--

A. The New Mexico legislative council, the legislative finance committee, the governor and the retiree health care authority shall jointly appoint a staff working group to study issues relating to the retiree health care fund. The working group shall:

(1) taking into account the latest actuarial study, examine the long-term actuarial trend and condition of the fund;

(2) examine the equitable nature of the current contribution rates between retirees and current employees;

(3) determine the percent of the fund balance derived from state sources versus the percent derived from the sources of political subdivisions, compare those percentages with the expenditures from the fund for state retirees versus retirees of the political subdivisions and study the feasibility of creating two separate programs for the two classes of retirees;

(4) examine options to improve the actuarial soundness of the fund;

(5) evaluate the need for, and the feasibility of, securing the fund as an irrevocable trust;

(6) consult with such experts as are necessary to accomplish its duties;  
and

(7) report its findings and recommendations to the governor, the New Mexico legislative council, the legislative finance committee and the retiree health care authority no later than December 15, 2007.

B. One hundred thousand dollars (\$100,000) is appropriated from legislative cash balances to the legislative council service for expenditure in fiscal years 2007 and 2008 for the purposes of performing the study pursuant to Subsection A of this section. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to legislative cash balances.

Approved April 2, 2007

## **LAWS 2007, CHAPTER 169**

AN ACT

RELATING TO PROPERTY; CHANGING THE RIGHTS AND RESPONSIBILITIES OF OWNERS AND RESIDENTS; PROVIDING PROCEDURES FOR HANDLING SECURITY DEPOSITS AND PERSONAL PROPERTY OF A DECEASED RESIDENT.

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

### **Chapter 169 Section 1 Laws 2007**

Section 1. A new section of the Uniform Owner-Resident Relations Act is enacted to read:

"PERSONAL PROPERTY AND SECURITY DEPOSIT OF DECEASED RESIDENT--CONTACT PERSON.--

A. As used in this section, "contact person" means the person designated by a resident in writing as the person to contact and release property to in the event of the resident's death.

B. The owner may request in writing, including by a requirement in the rental agreement, that the resident:

(1) provide the owner with the name, address and telephone number of a contact person; and

(2) sign a statement authorizing the owner in the event of the resident's death to:

(a) grant the contact person access to the dwelling unit at a reasonable time and in the presence of the owner or the owner's agent;

(b) allow the contact person to remove the resident's property from the dwelling unit; and

(c) refund the resident's security deposit, less lawful deductions, to the contact person.

C. A resident may, without request from the owner, provide the owner with the name, address and telephone number of a contact person.

D. Except as provided in Subsection E of this section, in the event of the death of a resident who is the sole occupant of a rental dwelling, the owner:

(1) shall turn over possession of property in the dwelling unit to the contact person or to any other person lawfully entitled to the property if the request is made prior to the property being discarded pursuant to Paragraph (5) of this subsection;

(2) shall refund the resident's security deposit, less lawful deductions, including the cost of removing and storing the property, to the contact person or to any other person lawfully entitled to the refund;

(3) may remove and store all property found in the dwelling unit;

(4) may require any person who removes property from the resident's dwelling unit to sign an inventory of the property being removed; and

(5) may discard property removed by the owner from the resident's dwelling unit if:

(a) the owner has mailed a written request by certified mail, return receipt requested, to the contact person, requesting that the property be removed;

(b) the contact person failed to remove the property within thirty days after the request is mailed; and

(c) the owner, prior to the date of discarding the property, has not been contacted by anyone claiming the property.

E. An owner and a resident may agree to a procedure different than the procedure in this section for removing, storing or disposing of property in the dwelling unit of a deceased resident in a written rental agreement or other agreement.

F. If, after a written request by an owner, a resident does not provide the owner with the name, address and telephone number of a contact person, the owner shall have no responsibility after the resident's death for removal, storage, disappearance, damage or disposition of property in the resident's dwelling.

G. An owner who violates Subsection D of this section shall be liable to the estate of the deceased resident for actual damages."

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House Bill 771

Approved April 2, 2007

# **LAWS 2007, CHAPTER 170**

AN ACT

RELATING TO JUDGES; AMENDING THE FORMULA FOR DETERMINING SALARIES OF METROPOLITAN AND MAGISTRATE COURT JUDGES; MAKING AN APPROPRIATION.

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

## **Chapter 170 Section 1 Laws 2007**

Section 1. Section 34-1-9 NMSA 1978 (being Laws 1993, Chapter 278, Section 1, as amended) is amended to read:

"34-1-9. SALARIES OF JUSTICES, JUDGES AND MAGISTRATES.--

A. Justices of the supreme court shall each receive an annual salary as provided by the legislature. The chief justice of the supreme court shall receive an annual salary that is two thousand dollars (\$2,000) more than the annual salary of a justice of the supreme court.

B. The chief judge of:

(1) the court of appeals shall receive an annual salary that is ninety-five percent of the annual salary of the chief justice of the supreme court;

(2) a district court shall receive an annual salary that is ninety-five percent of the annual salary of the chief judge of the court of appeals; and

(3) a metropolitan court shall receive an annual salary that is ninety-five percent of the annual salary of the chief judge of a district court.

C. The presiding magistrate of a magistrate district where three or more divisions operate as a single court shall receive an annual salary that is seventy-five percent of the annual salary of the chief judge of a metropolitan court.

D. Notwithstanding any other provision of law or any other provision of this section, the annual salaries of the following judges and magistrates shall be established as follows:

(1) a judge of the court of appeals shall receive an annual salary that is ninety-five percent of the annual salary of a justice of the supreme court;

(2) a district court judge shall receive an annual salary that is ninety-five percent of the annual salary of a judge of the court of appeals;

(3) a metropolitan court judge shall receive an annual salary that is ninety-five percent of the annual salary of a district court judge;

(4) a full-time magistrate shall receive an annual salary that is seventy-five percent of the annual salary of a metropolitan court judge;

(5) a half-time magistrate shall receive an annual salary that is fifty percent of the annual salary of a full-time magistrate; and

(6) a quarter-time magistrate shall receive an annual salary that is twenty-five percent of the annual salary of a full-time magistrate.

E. For fiscal year 1995 and all subsequent fiscal years, the annual salary for justices of the supreme court, judges of the court of appeals, district court judges, metropolitan court judges and magistrates shall be established by the legislature in an appropriations act.

F. No additional salaries shall be paid to justices, judges or magistrates on account of services rendered the state. Justices of the supreme court, judges of the court of appeals, district court judges, metropolitan court judges and magistrates shall receive per diem and mileage for necessary travel on official business of the court as provided in the Per Diem and Mileage Act."

## **Chapter 170 Section 2 Laws 2007**

### Section 2. APPROPRIATION.--

A. Four hundred twenty-three thousand one hundred twenty-five dollars (\$423,125) is appropriated from the general fund to the following agencies for expenditure in fiscal year 2008 to pay the cost of increasing the percentage of judicial salaries pursuant to Section 34-1-9 NMSA 1978 in the following amounts:

(1) one hundred nineteen thousand four hundred five dollars (\$119,405) to the Bernalillo county metropolitan court for metropolitan judges' salaries; and

(2) three hundred three thousand seven hundred twenty dollars (\$303,720) to the administrative office of the courts for magistrate judges' salaries.

B. The salary increases shall be effective the first full pay period after July 1, 2007. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

Approved April 2, 2007

## **LAWS 2007, CHAPTER 171**

AN ACT

RELATING TO ENERGY EFFICIENCY; AMENDING THE ENERGY EFFICIENCY AND RENEWABLE ENERGY BONDING ACT TO PROVIDE FOR ASSESSMENTS, CREATE A REVOLVING FUND, INCREASE THE DURATION OF INSTALLATION CONTRACTS AND REMOVE THE REQUIREMENT FOR A STATE PLAN; MAKING AN APPROPRIATION.

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

### **Chapter 171 Section 1 Laws 2007**

Section 1. Section 6-21D-1 NMSA 1978 (being Laws 2005, Chapter 176, Section 1) is amended to read:

"6-21D-1. SHORT TITLE.--Chapter 6, Article 21D NMSA 1978 may be cited as the "Energy Efficiency and Renewable Energy Bonding Act"."

### **Chapter 171 Section 2 Laws 2007**

Section 2. Section 6-21D-3 NMSA 1978 (being Laws 2005, Chapter 176, Section 3) is amended to read:

"6-21D-3. BUILDING ASSESSMENTS FOR ENERGY EFFICIENCY MEASURES.--

A. Upon the request of a state agency or a school district, the department may perform an energy efficiency assessment of a state or school district building to identify the energy efficiency measures that can be installed and operated at a total price that is less than the energy cost savings realized. In addition, the assessment shall include a schedule for funding and installing the energy efficiency measures that will realize significant energy cost savings in the shortest time frame. The department shall develop the assessment of:

(1) state buildings in conjunction with the property control division of the general services department, the staff architect of the division, the capitol buildings planning commission and other state agencies with control and management over buildings; and

(2) school district buildings, in conjunction with the public education department, the public school capital outlay council and the public school facilities authority.

B. State agencies and school districts shall cooperate with the department in the assessment performed pursuant to Subsection A of this section."

### **Chapter 171 Section 3 Laws 2007**

Section 3. Section 6-21D-4 NMSA 1978 (being Laws 2005, Chapter 176, Section 4) is amended to read:

"6-21D-4. CONTRACTS FOR THE INSTALLATION OF ENERGY EFFICIENCY MEASURES.--Pursuant to an energy efficiency assessment performed under Section 6-21D-3 NMSA 1978 and with the approval of the department, a state agency or school district may install or enter into contracts for the installation of energy efficiency measures on the building identified in the assessment. An installation contract shall be entered into pursuant to the Procurement Code, except that the contract may be entered into for a term of up to ten years. The installation or contracts shall address provisions concerning payment schedules, monitoring, inspecting, measuring and warranties as are necessary to ensure that the energy efficiency measures will be installed and the energy cost savings realized in the manner most beneficial to the state; provided that bonds shall not be issued pursuant to the Energy Efficiency and Renewable Energy Bonding Act without a finding by the department that the energy cost savings realized from the energy efficiency measures will be greater than the debt service due on the bonds issued to finance the energy efficiency measures."

### **Chapter 171 Section 4 Laws 2007**

Section 4. Section 6-21D-7 NMSA 1978 (being Laws 2005, Chapter 176, Section 7) is amended to read:

"6-21D-7. ENERGY EFFICIENCY BONDS AUTHORIZED -- CONDITIONS -- PROCEDURE.--

A. The authority is authorized to issue and sell from time to time revenue bonds, known as "energy efficiency bonds", in an amount outstanding at any one time not to exceed twenty million dollars (\$20,000,000), payable solely from the fund, in compliance with the Energy Efficiency and Renewable Energy Bonding Act and the New Mexico Finance Authority Act for the purpose of installing energy efficiency measures when the department has certified the need for the bonds and the conditions of Subsection C of this section have been satisfied.

B. The net proceeds from the bonds are appropriated to the authority for the purpose of making distributions to one or more state agencies or school districts that, pursuant to an energy efficiency assessment by the department, have committed to

install energy efficiency measures or entered into contracts for the installation of the measures. Upon receipt of a distribution, the state agency or school district shall deposit into the energy efficiency assessment revolving fund the cost incurred by the department to make the energy efficiency assessment on the building and shall use the remainder for the installation of energy efficiency measures pursuant to the Energy Efficiency and Renewable Energy Bonding Act, provided that, after the installation of the energy efficiency measures, any unexpended balance of the bond proceeds shall revert to the energy efficiency and renewable energy bonding fund.

C. Bonds shall not be issued pursuant to this section unless:

(1) a state agency or school district has committed to install or has entered into one or more contracts pursuant to Section 6-21D-4 NMSA 1978 for the installation of energy efficiency measures and the department has certified that the resulting energy cost savings will be realized within a reasonable time;

(2) considering the timeliness and amount of energy cost savings estimated to be realized from the energy efficiency measures, the department has certified the approximate date when the energy cost savings are most likely to equal or exceed the debt service due on the bonds to be issued to fund the energy efficiency measures;

(3) the life of energy efficiency measures meets or exceeds the life of the bonds allocable to those energy efficiency measures as determined by the department and the authority; and

(4) based on the department's certification, the debt service on the bonds has been structured by the authority to preclude the annual debt service payments due until the date that the cost savings equal or exceed the debt service.

D. Each series of bonds shall be issued pursuant to the provisions of the New Mexico Finance Authority Act, except as otherwise provided in the Energy Efficiency and Renewable Energy Bonding Act."

## **Chapter 171 Section 5 Laws 2007**

Section 5. Section 6-21D-10 NMSA 1978 (being Laws 2005, Chapter 176, Section 10) is amended to read:

"6-21D-10. ANNUAL REPORT REQUIRED.--No later than December 1 of each year, the department shall report to the legislature and to the governor on its activities during the previous fiscal year in administering the provisions of the Energy Efficiency and Renewable Energy Bonding Act. The report shall include:

A. details concerning all payments made for the installation of energy efficiency measures;

B. details concerning all expenditures made in administering the provisions of the Energy Efficiency and Renewable Energy Bonding Act;

C. a list of all buildings on which an energy efficiency assessment has been performed and the buildings in which energy efficiency measures were installed;

D. details showing how the energy cost savings were calculated;

E. an analysis of whether the program has been cost-effective;

F. a summary of activities being conducted during the present fiscal year; and

G. any additional information that will assist the legislature and the governor in evaluating the program."

## **Chapter 171 Section 6 Laws 2007**

Section 6. A new section of the Energy Efficiency and Renewable Energy Bonding Act is enacted to read:

"ENERGY EFFICIENCY ASSESSMENT REVOLVING FUND.--The "energy efficiency assessment revolving fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund and reimbursements of costs incurred by the department in performing energy efficiency assessments pursuant to the Energy Efficiency and Renewable Energy Bonding Act. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year. Money in the fund is appropriated to the department for the purposes of performing energy efficiency assessments. Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources."

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House Bill 825, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 172**

AN ACT

RELATING TO TAXATION; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS FROM CERTAIN MILITARY CONTRACTS TO IMPLEMENT MISSION TRANSITION PROJECTS; PROVIDING FOR THE ANGEL INVESTMENT CREDIT FOR INVESTMENT IN CERTAIN BUSINESSES; ENACTING THE RURAL JOB TAX

CREDIT; CLARIFYING THE APPLICABILITY AND AMENDING THE DEFINITIONS OF THE FILM PRODUCTION TAX CREDIT; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS FROM SERVICES PROVIDED FOR THE OPERATIONALLY RESPONSIVE SPACE PROGRAM; EXTENDING THE DEADLINE BY WHICH A TRADE SUPPORT COMPANY MUST LOCATE IN NEW MEXICO TO BE ELIGIBLE FOR GROSS RECEIPTS TAX DEDUCTIONS; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR CERTAIN RECEIPTS OF AIRCRAFT MANUFACTURERS; EXPANDING THE SCOPE OF THE GROSS RECEIPTS TAX DEDUCTION FOR SALES OF AGRICULTURAL IMPLEMENTS TO INCLUDE IRRIGATION TOOLS, UTENSILS OR INSTRUMENTS; PROVIDING FOR A DEDUCTION FROM GROSS RECEIPTS FOR PROFESSIONAL BOXING, WRESTLING OR MARTIAL ARTS CONTESTS; PROVIDING FOR A DEDUCTION FROM GROSS RECEIPTS FOR FEES FOR CERTAIN FINANCIAL MANAGEMENT OR INVESTMENT ADVISORY SERVICES; PROVIDING FOR A DEDUCTION FROM GROSS RECEIPTS FOR MEDICAL SERVICES AND MEDICAL SUPPLIES FOR CATTLE; PROVIDING EXEMPTIONS FROM GROSS RECEIPTS TAX AND COMPENSATING TAX FOR CERTAIN LOCOMOTIVE ENGINE FUEL; PROVIDING FOR INCREASED TAX CREDITS PURSUANT TO THE LABORATORY PARTNERSHIP WITH SMALL BUSINESS TAX CREDIT ACT AND ADDING ELIGIBILITY REQUIREMENTS AND INCREASING THE AMOUNT OF COSTS THAT MAY BE CLAIMED AS QUALIFIED EXPENDITURES; PROVIDING FOR COORDINATION OF EFFORTS BETWEEN NATIONAL LABORATORIES PROVIDING SMALL BUSINESS ASSISTANCE PURSUANT TO THE LABORATORY PARTNERSHIP WITH SMALL BUSINESS TAX CREDIT ACT AND PROVIDING REPORTING REQUIREMENTS FOR THOSE NATIONAL LABORATORIES; MAKING PERMANENT THE HIGH-WAGE JOBS TAX CREDIT; AMENDING THE LEASED VEHICLE GROSS RECEIPTS TAX ACT TO EXEMPT TEMPORARY REPLACEMENT VEHICLES FROM THE LEASED VEHICLE SURCHARGE; REPEALING A SECTION OF LAWS 2004; DECLARING AN EMERGENCY.

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

## **Chapter 172 Section 1 Laws 2007**

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

"ANGEL INVESTMENT CREDIT.--

A. A taxpayer who files a New Mexico income tax return, is not a dependent of another taxpayer, is an accredited investor and makes a qualified investment may claim a credit in an amount not to exceed twenty-five percent of not more than one hundred thousand dollars (\$100,000) of the qualified investment. The tax credit provided in this section shall be known as the "angel investment credit".

B. A taxpayer may claim the angel investment credit for not more than two qualified investments in a taxable year; provided that each investment is in a different

qualified business. A taxpayer may claim the angel investment credit for qualified investments made in the same qualified business or successor of that business for not more than three taxable years. The angel investment credit shall not exceed twenty-five thousand dollars (\$25,000) for each qualified investment by the taxpayer.

C. A taxpayer may claim the angel investment credit no later than one year following the end of the calendar year in which the qualified investment was made; provided that a claim for the credit may not be made or allowed with respect to any investment made after December 31, 2011.

D. A taxpayer shall apply for certification of eligibility for the angel investment credit from the economic development department. Applications shall be considered in the order received. If the economic development department determines that the taxpayer is an accredited investor and the investment is a qualified investment, it shall issue a certificate of eligibility to the taxpayer, subject to the limitation in Subsection E of this section. The certificate shall be dated and shall include a calculation of the amount of the angel investment credit for which the taxpayer is eligible. The economic development department may issue rules governing the procedure for administering the provisions of this subsection.

E. The economic development department may issue a certificate of eligibility pursuant to Subsection D of this section only if the total amount of angel investment credits represented by certificates of eligibility issued by the economic development department in any calendar year will not exceed seven hundred fifty thousand dollars (\$750,000). If the applications for certificates of eligibility for angel investment credits represent an aggregate amount exceeding seven hundred fifty thousand dollars (\$750,000) for any calendar year, certificates shall be issued in the order that the applications were received. The excess applications that would have been certified, but for the limit imposed by this subsection, shall be certified, subject to the same limit, in subsequent calendar years.

F. The economic development department shall report annually to the legislative finance committee on the utilization and effectiveness of the angel investment credit. The report shall include, at a minimum: the number of accredited investors to whom certificates of eligibility were issued by the department in the previous year; the names of those investors; the amount of angel investment credit for which each investor was certified eligible; and the number and names of the businesses that the department has determined are qualified businesses for purposes of an investment by an accredited investor. The report shall also include an evaluation of the success of the angel investment credit as an incubator of new businesses in New Mexico and of the continued viability and operation in New Mexico of businesses in which investments eligible for the angel investment credit have been made.

G. To claim the angel investment credit, the taxpayer must provide to the taxation and revenue department a certificate of eligibility issued by the economic development department pursuant to Subsection D of this section and any other information the

taxation and revenue department may require to determine the amount of the tax credit due the taxpayer. If the requirements of this section have been complied with, the taxation and revenue department shall approve the claim for the credit.

H. A taxpayer who otherwise qualifies for and claims a credit pursuant to this section for a qualified investment made by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to the taxpayer's interest in the partnership or business association. The total credit claimed in the aggregate by all members of the partnership or business association in a taxable year with respect to a qualified investment shall not exceed twenty-five thousand dollars (\$25,000).

I. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim one-half of the credit that would have been allowed on a joint return.

J. The angel investment credit may only be deducted from the taxpayer's income tax liability. Any portion of the tax credit provided by this section that remains unused at the end of the taxpayer's taxable year may be carried forward for three consecutive years.

K. As used in this section:

(1) "accredited investor" means a person who is an accredited investor within the meaning of Rule 501 issued by the federal securities and exchange commission pursuant to the federal Securities Act of 1933, as amended;

(2) "business" means a corporation, general partnership, limited partnership, limited liability company or other similar entity, but excludes an entity that is a government or a nonprofit organization designated as such by the federal government or any state;

(3) "equity" means common or preferred stock of a corporation, a partnership interest in a limited partnership or a membership interest in a limited liability company, including debt subject to an option in favor of the creditor to convert the debt into common or preferred stock, a partnership interest or a membership interest;

(4) "high-technology research" means research:

(a) that is undertaken for the purpose of discovering information that is technological in nature and the application of which is intended to be useful in the development of a new or improved business component of the qualified business; and

(b) substantially all of the activities of which constitute elements of a process or experimentation related to a new or improved function, performance, reliability or quality, but not related to style, taste or cosmetic or seasonal design factors;

(5) "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include:

- (a) construction;
- (b) farming;
- (c) processing natural resources, including hydrocarbons; or
- (d) preparing meals for immediate consumption, on- or off-premises;

(6) "qualified business" means a business that:

- (a) maintains its principal place of business in New Mexico;
- (b) engages in high-technology research or manufacturing activities in New Mexico;

(c) is not primarily engaged in or is not primarily organized as any of the following types of businesses: credit or finance services, including banks, savings and loan associations, credit unions, small loan companies or title loan companies; financial brokering or investment; professional services, including accounting, legal services, engineering and any other service the practice of which requires a license; insurance; real estate; construction or construction contracting; consulting or brokering; mining; wholesale or retail trade; providing utility service, including water, sewerage, electricity, natural gas, propane or butane; publishing, including publishing newspapers or other periodicals; broadcasting; or providing internet operating services;

(d) has not issued securities registered pursuant to Section 6 of the federal Securities Act of 1933, as amended; has not issued securities traded on a national securities exchange; is not subject to reporting requirements of the federal Securities Exchange Act of 1934, as amended; and is not registered pursuant to the federal Investment Company Act of 1940, as amended, at the time of the investment;

(e) has one hundred or fewer employees calculated on a full-time-equivalent basis at the time of the investment; and

(f) has not had gross revenues in excess of five million dollars (\$5,000,000) in any fiscal year ending on or before the date of the investment; and

(7) "qualified investment" means a cash investment in a qualified business for equity, but does not include an investment by a taxpayer if the taxpayer, a member of the taxpayer's immediate family or an entity affiliated with the taxpayer receives

compensation from the qualified business in exchange for services provided to the qualified business within one year of investment in the qualified business."

## **Chapter 172 Section 2 Laws 2007**

Section 2. A new Section 7-2E-1.1 NMSA 1978 is enacted to read:

"7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

A. The tax credit created by this section may be referred to as the "rural job tax credit". Every eligible employer may apply for, and the taxation and revenue department may allow, a tax credit for each qualifying job the employer creates. The maximum tax credit amount with respect to each qualifying job is equal to:

(1) twenty-five percent of the first sixteen thousand dollars (\$16,000) in wages paid for the qualifying job if the job is performed or based at a location in a tier one area; or

(2) twelve and one-half percent of the first sixteen thousand dollars (\$16,000) in wages paid if the qualifying job is performed or based at a location in a tier two area.

B. The amount of the rural job tax credit shall be six and one-fourth percent of the first sixteen thousand dollars (\$16,000) in wages paid for the qualifying job in a qualifying period. The rural job tax credit may be claimed for each qualifying job for a maximum of:

(1) four qualifying periods for each qualifying job performed or based at a location in a tier one area; and

(2) two qualifying periods for each qualifying job performed or based at a location in a tier two area.

C. With respect to each qualifying job for which an eligible employer seeks the rural job tax credit, the employer shall certify the amount of wages paid to each eligible employee during each qualifying period, the number of weeks during the qualifying period the position was occupied and whether the qualifying job was in a tier one or tier two area.

D. The economic development department shall determine which employers are eligible employers and shall report the listing of eligible businesses to the taxation and revenue department in a manner and at times the departments shall agree upon.

E. To receive a rural job tax credit with respect to any qualifying period, an eligible employer must apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification

made pursuant to Subsection C of this section. If all the requirements of this section have been complied with, the taxation and revenue department may issue to the applicant a document granting a tax credit for the appropriate qualifying period. The tax credit document shall be numbered for identification and declare its date of issuance and the amount of rural job tax credit allowed for the respective jobs created. The tax credit documents may be sold, exchanged or otherwise transferred and may be carried forward for a period of three years from the date of issuance. The parties to such a transaction to sell, exchange or transfer a rural job tax credit document shall notify the department of the transaction within ten days of the sale, exchange or transfer.

F. The holder of the tax credit document may apply all or a portion of the rural job tax credit granted by the document against the holder's modified combined tax liability, personal income tax liability or corporate income tax liability. Any balance of rural job tax credit granted by the document may be carried forward for up to three years from the date of issuance of the tax credit document. No amount of rural job tax credit may be applied against a gross receipts tax imposed by a municipality or county.

G. Notwithstanding the provisions of Section 7-1-8 NMSA 1978, the taxation and revenue department may disclose to any person the balance of rural job tax credit remaining on any tax credit document and the balance of credit remaining on that document for any period.

H. The secretary of economic development, the secretary of taxation and revenue and the secretary of labor or their designees shall annually evaluate the effectiveness of the rural job tax credit in stimulating economic development in the rural areas of New Mexico and make a joint report of their findings to each session of the legislature so long as the rural job tax credit is in effect.

I. An eligible employer that creates a qualifying job in the period beginning on or after July 1, 2006 but before July 1, 2007 or creates a qualifying job, the qualifying period of which includes a part of the period between July 1, 2006 and July 1, 2007, for which the eligible employer has not received a rural job tax credit document pursuant to this section may submit an application for, and the department may issue to the eligible employer applying, a document granting a tax credit for the appropriate qualifying period. Claims for a rural job tax credit submitted pursuant to the provisions of this subsection shall be submitted within three years from the date of issuance of the rural job tax credit document.

J. As used in this section:

(1) "eligible employee" means any individual other than an individual who:

(a) bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other

than a corporation, to any individual who owns, directly or indirectly, more than fifty percent of the capital and profits interests in the entity;

(b) if the employer is an estate or trust, is a grantor, beneficiary or fiduciary of the estate or trust or is an individual who bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary of the estate or trust; or

(c) is a dependent, as that term is described in 26 U.S.C. Section 152(a)(9), of the employer or, if the taxpayer is a corporation, of an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, of any individual who owns, directly or indirectly, more than fifty percent of the capital and profits interests in the entity or, if the employer is an estate or trust, of a grantor, beneficiary or fiduciary of the estate or trust;

(2) "eligible employer" means an employer

who has been approved for in-plant training assistance pursuant to Section 21-19-7 NMSA 1978;

(3) "metropolitan statistical area" means a metropolitan statistical area in New Mexico as determined by the United States bureau of the census;

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

(5) "qualifying job" means a job established by the employer that is occupied by an eligible employee for at least forty-eight weeks of a qualifying period;

(6) "qualifying period" means the period of twelve months beginning on the day an eligible employee begins working in a qualifying job or the period of twelve months beginning on the anniversary of the day an eligible employee began working in a qualifying job;

(7) "rural area" means any part of the state other than:

(a) an H class county;

(b) the state fairgrounds;

(c) an incorporated municipality within a metropolitan statistical area if the municipality's population is thirty thousand or more according to the most recent federal decennial census; and

(d) any area within ten miles of the exterior boundaries of a municipality described in Subparagraph (c) of this paragraph;

(8) "tier one area" means:

(a) any municipality within the rural area if the municipality's population according to the most recent federal decennial census is fifteen thousand or less; or

(b) any part of the rural area that is not within the exterior boundaries of a municipality;

(9) "tier two area" means any municipality within the rural area if the municipality's population according to the most recent federal decennial census is more than fifteen thousand; and

(10) "wages" means wages as defined by Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c)."

## **Chapter 172 Section 3 Laws 2007**

Section 3. Section 7-2F-1 NMSA 1978 (being Laws 2002, Chapter 36, Section 1, as amended) is amended to read:

"7-2F-1. FILM PRODUCTION TAX CREDIT.--

A. The tax credit created by this section may be referred to as the "film production tax credit". An eligible film production company may apply for, and the taxation and revenue department may allow, a tax credit in an amount equal to the percentage specified in Subsection B of this section of:

(1) direct production expenditures made in New Mexico that:

(a) are directly attributable to the production in New Mexico of a film or commercial audiovisual product;

(b) are subject to taxation by the state of New Mexico; and

(c) exclude direct production expenditures for which another taxpayer claims the film production tax credit; and

(2) postproduction expenditures made in New Mexico that:

(a) are directly attributable to the production of a commercial film or audiovisual product;

(b) are for services performed in New Mexico;

(c) are subject to taxation by the state of New Mexico; and

(d) exclude postproduction expenditures for which another taxpayer claims the film production tax credit.

B. Except as provided in Subsections C and J of this section, the percentage to be applied in calculating the amount of the film production tax credit is twenty-five percent.

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 production tax credit is twenty percent.

D. The film production tax credit shall not be claimed with respect to direct production expenditures or postproduction expenditures for which the film production company has delivered a nontaxable transaction certificate pursuant to Section 7-9-86 NMSA 1978.

E. A long-form narrative film production for which the film production tax credit is claimed pursuant to Paragraph (1) of Subsection A of this section shall contain an acknowledgment that the production was filmed in New Mexico.

F. To be eligible for the film production tax credit, a film production company shall submit to the New Mexico film division of the economic development department information required by the division to demonstrate conformity with the requirements of this section and shall agree in writing:

(1) to pay all obligations the film production company has incurred in New Mexico;

(2) to publish, at completion of principal photography, a notice at least once a week for three consecutive weeks in local newspapers in regions where filming has taken place to notify the public of the need to file creditor claims against the film production company by a specified date;

(3) that outstanding obligations are not waived should a creditor fail to file by the specified date; and

(4) to delay filing of a claim for the film production tax credit until the New Mexico film division delivers written notification to the taxation and revenue department that the film production company has fulfilled all requirements for the credit.

G. The New Mexico film 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.

H. To receive a film production tax credit, a film production company shall apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification of the amount of direct production expenditures or postproduction expenditures made in New Mexico with respect to the film production for which the film production company is seeking the film production tax credit. If the requirements of this section have been complied with, the taxation and revenue department shall approve the film production tax credit and issue a document granting the tax credit.

I. The film production company may apply all or a portion of the film production tax credit granted against personal income tax liability or corporate income tax liability. If the amount of the film production tax credit claimed exceeds the film production company's tax liability for the taxable year in which the credit is being claimed, the excess shall be refunded.

J. As applied to direct production expenditures for the services of performing artists, the film production tax credit authorized by this section shall not exceed five million dollars (\$5,000,000) for services rendered by all performing artists in a production for which the film production tax credit is claimed."

## **Chapter 172 Section 4 Laws 2007**

Section 4. Section 7-2F-2 NMSA 1978 (being Laws 2003, Chapter 127, Section 2, as amended) is amended to read:

"7-2F-2. DEFINITIONS.--As used in Chapter 7, Article 2F NMSA 1978:

A. "commercial audiovisual product" means a film or a videogame intended for commercial exploitation;

B. "direct production expenditure" means a transaction that is subject to taxation in New Mexico, including:

(1) payment of wages, fringe benefits or fees for talent, management or labor to a person who is a New Mexico resident for purposes of the Income Tax Act;

(2) payment to a personal services corporation for the services of a performing artist if:

(a) the personal services corporation pays gross receipts tax in New Mexico on the portion of those payments qualifying for the tax credit; and

(b) the performing artist receiving payments from the personal services corporation pays New Mexico income tax; and

(3) any of the following provided by a vendor:

(a) the story and scenario to be used for a film;

(b) set construction and operations, wardrobe, accessories and related services;

(c) photography, sound synchronization, lighting and related services;

(d) editing and related services;

(e) rental of facilities and equipment;

(f) 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;

(g) food or lodging;

(h) 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;

(i) insurance coverage and bonding if purchased through a New Mexico-based insurance agent; and

(j) other direct costs of producing a film in accordance with generally accepted entertainment industry practice;

C. "federal new markets tax credit program" means the tax credit program codified as Section 45D of the United States Internal Revenue Code of 1986, as amended;

D. "film" means a single media or multimedia program, excluding advertising messages other than national or regional advertising messages intended for exhibition, that:

(1) is fixed on film, digital medium, videotape, computer disc, laser disc or other similar delivery medium;

(2) can be viewed or reproduced;

(3) is not intended to and does not violate a provision of Chapter 30, Article 37 NMSA 1978; and

(4) is intended for reasonable commercial exploitation for the delivery medium used;

E. "film production company" means a person that produces one or more films or any part of a film; and

F. "postproduction expenditure" means an expenditure for editing, Foley recording, automatic dialogue replacement, sound editing, special effects, including computer-generated imagery or other effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling or addition of sound or visual effects; but not including an expenditure for advertising, marketing, distribution or expense payments."

## **Chapter 172 Section 5 Laws 2007**

Section 5. Section 7-9-54.2 NMSA 1978 (being Laws 1995, Chapter 183, Section 2, as amended) is amended to read:

"7-9-54.2. GROSS RECEIPTS--DEDUCTION--SPACEPORT OPERATION--SPACE OPERATIONS--LAUNCHING, OPERATING AND RECOVERING SPACE VEHICLES OR PAYLOADS--PAYLOAD SERVICES--OPERATIONALLY RESPONSIVE SPACE PROGRAM SERVICES.--

A. Receipts from launching, operating or recovering space vehicles or payloads in New Mexico may be deducted from gross receipts.

B. Receipts from preparing a payload in New Mexico are deductible from gross receipts.

C. Receipts from operating a spaceport in New Mexico are deductible from gross receipts.

D. Receipts from the provision of research, development, testing and evaluation services for the United States air force operationally responsive space program may be deducted from gross receipts.

E. As used in this section:

(1) "operationally responsive space program" means a program authorized pursuant to 10 U.S.C. 2273a;

(2) "payload" means a system, subsystem or other mechanical structure or material to be conveyed into space that is designed, constructed or intended to perform a function in space;

(3) "space" means any location beyond altitudes of sixty thousand feet above the earth's mean sea level;

(4) "space operations" means the process of commanding and controlling payloads in space; and

(5) "spaceport" means an installation and related facilities used for the launching, landing, operating, recovering, servicing and monitoring of vehicles capable of entering or returning from space.

F. Receipts from the sale of tangible personal property that will become an ingredient or component part of a construction project or from performing construction services may not be deducted under this section."

## **Chapter 172 Section 6 Laws 2007**

Section 6. Section 7-9-56.3 NMSA 1978 (being Laws 2003, Chapter 232, Section 1) is amended to read:

"7-9-56.3. DEDUCTION--GROSS RECEIPTS--TRADE-SUPPORT COMPANY IN A BORDER ZONE.--

A. The receipts of a trade-support company may be deducted from gross receipts if:

(1) the trade-support company first locates in New Mexico within twenty miles of a port of entry on New Mexico's border with Mexico on or after July 1, 2003 but before July 1, 2013;

(2) the receipts are received by the company within a five-year period beginning on the date the trade-support company locates in New Mexico and the receipts are derived from its business activities and operations at its border zone location; and

(3) the trade-support company employs at least two employees in New Mexico.

B. As used in this section:

(1) "employee" means an individual, other than an individual who:

(a) bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, to an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interests in the entity;

(b) if the employer is an estate or trust, is a grantor, beneficiary or fiduciary of the estate or trust or is an individual who bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary of the estate or trust; or

(c) is a dependent, as that term is described in 26 U.S.C. Section 152(a)(9), of the employer, or, if the taxpayer is a corporation, of an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interests in the entity or, if the employer is an estate or trust, of a grantor, beneficiary or fiduciary of the estate or trust;

(2) "port of entry" means an international port of entry in New Mexico at which customs services are provided by United States customs and border protection; and

(3) "trade-support company" means a customs brokerage firm or a freight forwarder."

## **Chapter 172 Section 7 Laws 2007**

Section 7. Section 7-9-62 NMSA 1978 (being Laws 1969, Chapter 144, Section 52, as amended) is amended to read:

"7-9-62. DEDUCTION--GROSS RECEIPTS TAX--AGRICULTURAL IMPLEMENTS--AIRCRAFT MANUFACTURERS--VEHICLES THAT ARE NOT REQUIRED TO BE REGISTERED.--

A. Except for receipts deductible under Subsection B of this section, fifty percent of the receipts from selling agricultural implements, farm tractors, aircraft or vehicles that are not required to be registered under the Motor Vehicle Code may be deducted

from gross receipts; provided that, with respect to agricultural implements, the sale is made to a person who states in writing that the person is regularly engaged in the business of farming or ranching. Any deduction allowed under Section 7-9-71 NMSA 1978 must be taken before the deduction allowed by this subsection is computed.

B. Receipts of an aircraft manufacturer or affiliate from selling aircraft or aircraft parts or from selling services performed on aircraft or aircraft components or from selling aircraft flight support, pilot training or maintenance training services may be deducted from gross receipts. Any deduction allowed under Section 7-9-71 NMSA 1978 must be taken before the deduction allowed by this subsection is computed.

C. As used in this section:

(1) "affiliate" means a business entity that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the aircraft manufacturer;

(2) "agricultural implement" means a tool, utensil or instrument that is:

(a) designed to irrigate agricultural crops above ground or below ground at the place where the crop is grown; or

(b) designed primarily for use with a source of motive power, such as a tractor, in planting, growing, cultivating, harvesting or processing agricultural crops at the place where the crop is grown; in raising poultry or livestock; or in obtaining or processing food or fiber, such as eggs, milk, wool or mohair, from living poultry or livestock at the place where the poultry or livestock are kept for this purpose; and

(c) depreciable for federal income tax purposes;

(3) "aircraft manufacturer" means a business entity that in the ordinary course of business designs and builds private or commercial aircraft certified by the federal aviation administration;

(4) "business entity" means a corporation, limited liability company, partnership, limited partnership, limited liability partnership or real estate investment trust, but does not mean an individual or a joint venture;

(5) "control" means equity ownership in a business entity that:

(a) represents at least fifty percent of the total voting power of that business entity; and

(b) has a value equal to at least fifty percent of the total equity of that business entity; and

(6) "flight support" means providing navigation data, charts, weather information, online maintenance records and other aircraft or flight-related information and the software needed to access the information."

## **Chapter 172 Section 8 Laws 2007**

Section 8. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--MILITARY CONSTRUCTION SERVICES.--

A. Receipts from military construction services provided at New Mexico military installations to implement special operations mission transition projects pursuant to contracts entered into with the United States department of defense may be deducted from gross receipts; provided that the military installation is located in a class B county with a population greater than forty-two thousand according to the most recent federal decennial census and with a net taxable value for rate-setting purposes of less than one billion dollars (\$1,000,000,000) as determined by the local government division of the department of finance and administration for the 2006 property tax year.

B. The deduction provided in this section applies to reporting periods beginning July 1, 2007 and ending December 31, 2010.

## **Chapter 172 Section 9 Laws 2007**

Section 9. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS TAX--PRODUCTION OR STAGING OF PROFESSIONAL CONTESTS.--Receipts from producing or staging a professional boxing, wrestling or martial arts contest that occurs in New Mexico, including receipts from ticket sales and broadcasting, may be deducted from gross receipts."

## **Chapter 172 Section 10 Laws 2007**

Section 10. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS--RECEIPTS FROM PERFORMING MANAGEMENT OR INVESTMENT ADVISORY SERVICES FOR MUTUAL FUNDS, HEDGE FUNDS OR REAL ESTATE INVESTMENT TRUSTS.--

A. Receipts from fees received for performing management or investment advisory services for a mutual fund, hedge fund or real estate investment trust may be deducted from gross receipts.

B. As used in this section:

(1) "hedge fund" means a private investment fund or pool, the assets of which are managed by a professional management firm, that:

(a) trades or invests, through public market or private transactions, in securities, commodities, currency, derivatives or similar classes of financial assets; or

(b) is not an investment company pursuant to the provisions of 15 U.S.C. 80a-3(c)(1) or 15 U.S.C. 80a-3(c)(7);

(2) "mutual fund" means an entity registered pursuant to the federal Investment Company Act of 1940, as amended; and

(3) "real estate investment trust" means an entity described in Section 856(a) of the Internal Revenue Code of 1986, as amended, the investments of which are limited to interests in mortgages on real property and shares of or transferable certificates of beneficial interest in an entity described in Section 856(a) of the Internal Revenue Code of 1986, as amended."

## **Chapter 172 Section 11 Laws 2007**

Section 11. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

**"DEDUCTION--GROSS RECEIPTS TAX--VETERINARY MEDICAL SERVICES, MEDICINE OR MEDICAL SUPPLIES USED IN MEDICAL TREATMENT OF CATTLE.--**

A. Receipts from sales of veterinary medical services, medicine or medical supplies used in the medical treatment of cattle may be deducted from gross receipts if the sale is made to a person who states in writing that the person is regularly engaged in the business of ranching or farming, including dairy farming, in New Mexico or if the sale is made to a veterinarian who holds a valid license pursuant to the Veterinary Practice Act and who is providing veterinary medical services, medicine or medical supplies in the treatment of cattle owned by that person.

B. As used in this section, "cattle" means animals of the genus bos, including dairy cattle, and does not include any other kind of livestock."

## **Chapter 172 Section 12 Laws 2007**

Section 12. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

**"EXEMPTION--GROSS RECEIPTS TAX--LOCOMOTIVE ENGINE FUEL.--**

Receipts from the sale of fuel to a common carrier to be loaded or used in a locomotive engine are exempted from the gross receipts tax. For the purposes of this section, "locomotive engine" means a wheeled vehicle consisting of a self-propelled engine that is used to draw trains along railway tracks."

### **Chapter 172 Section 13 Laws 2007**

Section 13. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"EXEMPTION--COMPENSATING TAX--LOCOMOTIVE ENGINE FUEL.--

Exempted from the compensating tax is the use of fuel to be loaded or used by a common carrier in a locomotive engine. For the purposes of this section, "locomotive engine" means a wheeled vehicle consisting of a self-propelled engine that is used to draw trains along railway tracks."

### **Chapter 172 Section 14 Laws 2007**

Section 14. Section 7-9E-1 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 1) is amended to read:

"7-9E-1. SHORT TITLE.--Chapter 7, Article 9E NMSA 1978 may be cited as the "Laboratory Partnership with Small Business Tax Credit Act"."

### **Chapter 172 Section 15 Laws 2007**

Section 15. Section 7-9E-3 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 3) is amended to read:

"7-9E-3. DEFINITIONS.--As used in the Laboratory Partnership with Small Business Tax Credit Act:

A. "contractor":

(1) means a person that:

(a) has the capability to provide small business assistance; and

(b) may enter into a contract with a national laboratory to provide small business assistance; and

(2) includes:

(a) a gas, water or electric utility owned or operated by a county, municipality or other political subdivision of the state; or

(b) a national, federal, state, Indian or other governmental unit or subdivision, or an agency, department or instrumentality of any of the foregoing;

B. "department" means the taxation and revenue department, the secretary of taxation and revenue or an employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "national laboratory" means a prime contractor designated as a national laboratory by act of congress that is operating a facility in New Mexico;

D. "qualified expenditure" means an expenditure by a national laboratory in providing small business assistance, limited to the following expenditures incurred in providing the assistance:

(1) employee salaries, wages, fringe benefits and employer payroll taxes;

(2) administrative costs related directly to the provision of small business assistance, the total of which is limited to forty-nine percent of employee salaries, wages, fringe benefits and employer payroll taxes;

(3) in-state travel expenses, including per diem and mileage at the internal revenue service standard rates; and

(4) supplies and services of contractors related to the provision of small business assistance;

E. "rural area" means an area of the state outside of the exterior boundaries of a class A county that has a net taxable value for rate-setting purposes for any property tax year of more than seven billion dollars (\$7,000,000,000);

F. "small business" means a business in New Mexico that conforms to the definition of small business found in the federal Small Business Act; and

G. "small business assistance" means assistance rendered by a national laboratory related to the transfer of technology, including software, manufacturing, mining, oil and gas, environmental, agricultural, information and solar and other alternative energy source technologies. "Small business assistance" includes nontechnical assistance related to expanding the New Mexico base of suppliers, including training and mentoring individual small businesses; assistance in developing business systems to meet audit, reporting and quality assurance requirements; and other supplier development initiatives for individual small businesses."

## **Chapter 172 Section 16 Laws 2007**

Section 16. Section 7-9E-5 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 5) is amended to read:

"7-9E-5. ELIGIBILITY REQUIREMENTS.--A national laboratory is eligible for a tax credit in an amount equal to qualified expenditures if:

A. the small business assistance is rendered to a small business located in New Mexico;

B. the small business assistance is completed;

C. the small business certifies to the national laboratory that the small business assistance provided is not otherwise available to the small business at a reasonable cost through private industry;

D. the national laboratory provides written notice to each small business to which it is providing small business assistance of the option that the small business has to obtain ownership of or license to tangible or intangible property developed from the small business assistance;

E. the national laboratory requires small businesses to which it is providing small business assistance to acknowledge only after the small business assistance is completed that the small business assistance has been rendered; and

F. the national laboratory provides forms for small business requests and for completion of small business assistance that are in accordance with the Laboratory Partnership with Small Business Tax Credit Act and other applicable state and federal laws."

## **Chapter 172 Section 17 Laws 2007**

Section 17. Section 7-9E-7 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 7) is amended to read:

"7-9E-7. TAX CREDITS--AMOUNTS.--A tax credit provided pursuant to the Laboratory Partnership with Small Business Tax Credit Act shall be in an amount equal to the qualified expenditure incurred by the national laboratory to provide small business assistance to a specific small business, not to exceed ten thousand dollars (\$10,000) for each small business located outside of a rural area for which small business assistance is rendered in a calendar year or twenty thousand dollars (\$20,000) if the small business assistance was provided to a small business located in a rural area."

## **Chapter 172 Section 18 Laws 2007**

Section 18. Section 7-9E-8 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 8) is amended to read:

"7-9E-8. CLAIMING THE TAX CREDIT--LIMITATION.--

A. A national laboratory eligible for the tax credit pursuant to the Laboratory Partnership with Small Business Tax Credit Act may claim the amount of each tax credit by crediting that amount against gross receipts taxes otherwise due pursuant to the Gross Receipts and Compensating Tax Act. The tax credit shall be taken on each monthly gross receipts tax return filed by the laboratory against gross receipts taxes due the state and shall not impact any local government tax distribution. In no event shall the tax credits taken by an individual national laboratory exceed two million four hundred thousand dollars (\$2,400,000) in a given calendar year.

B. Tax credits claimed pursuant to the Laboratory Partnership with Small Business Tax Credit Act by all national laboratories in the aggregate for qualified expenditures for a specific small business not located in a rural area shall not exceed ten thousand dollars (\$10,000).

C. Tax credits claimed pursuant to the Laboratory Partnership with Small Business Tax Credit Act by all national laboratories in the aggregate for qualified expenditures for a specific small business located in a rural area shall not exceed twenty thousand dollars (\$20,000)."

## **Chapter 172 Section 19 Laws 2007**

Section 19. A new section of the Laboratory Partnership with Small Business Tax Credit Act is enacted to read:

"COORDINATION BETWEEN NATIONAL LABORATORIES.--If more than one national laboratory is eligible for a tax credit pursuant to the Laboratory Partnership with Small Business Tax Credit Act, a national laboratory shall not file a tax credit claim pursuant to the Laboratory Partnership with Small Business Tax Credit Act until:

A. coordination is developed between the national laboratories providing small business assistance pursuant to the Laboratory Partnership with Small Business Tax Credit Act that generates a joint small business assistance operational plan and a plan to ensure that the small business assistance provided by a national laboratory suits the small business's needs and challenges; and

B. a written copy of each plan formed pursuant to this section is provided to the department."

## **Chapter 172 Section 20 Laws 2007**

Section 20. A new section of the Laboratory Partnership with Small Business Tax Credit Act is enacted to read:

"REPORTING.--

A. By October 15 of each year, a national laboratory that has claimed a tax credit pursuant to the Laboratory Partnership with Small Business Tax Credit Act for the previous calendar year shall submit an annual report in writing to the department, the economic development department and an appropriate legislative interim committee.

B. If more than one national laboratory claims a tax credit pursuant to the Laboratory Partnership with Small Business Tax Credit Act for the previous calendar year, those laboratories shall jointly submit an annual report to the department, the economic development department and an appropriate legislative interim committee no later than October 15 following the calendar year in which the small business assistance was provided.

C. An annual report shall summarize activities related to and the results of the small business assistance programs that were provided by one or more national laboratories and shall include:

(1) a summary of the program results and the number of small businesses assisted in each county;

(2) a description of the projects involving multiple small businesses;

(3) results of surveys of small businesses to which small business assistance is provided;

(4) the total amount of the tax credits claimed pursuant to the Laboratory Partnership with Small Business Tax Credit Act for the year on which the report is based; and

(5) an economic impact study of jobs created, jobs retained, cost savings and increased sales generated by small businesses for which small business assistance is provided.

D. At any time after receipt of an annual report required pursuant to this section from one or more national laboratories eligible for tax credits authorized pursuant to the Laboratory Partnership with Small Business Tax Credit Act, the department or the economic development department may provide written instructions to a national laboratory identifying future improvements in the laboratory's small business assistance program for which it receives that tax credit."

## **Chapter 172 Section 21 Laws 2007**

Section 21. Section 7-9G-1 NMSA 1978 (being Laws 2004, Chapter 15, Section 1) is amended to read:

"7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-WAGE JOBS.--

A. A taxpayer who is an eligible employer may apply for, and the taxation and revenue department may allow, a tax credit for each new high-wage economic-based job. The credit provided in this section may be referred to as the "high-wage jobs tax credit".

B. The high-wage jobs tax credit may be claimed and allowed in an amount equal to ten percent of the wages and benefits distributed to an eligible employee in a new high-wage economic-based job, but shall not exceed twelve thousand dollars (\$12,000).

C. The high-wage jobs tax credit may be claimed by an eligible employer for each new high-wage economic-based job performed for the year in which the new high-wage economic-based job is created and for the three following qualifying periods.

D. A new high-wage economic-based job shall not be eligible for a credit pursuant to this section unless the eligible employer's total number of employees with new high-wage economic-based jobs on the last day of the qualifying period at the location at which the job is performed or based is at least one more than the number on the day prior to the date the job was created.

E. With respect to each new high-wage economic-based job for which an eligible employer seeks the high-wage jobs tax credit, the employer shall certify:

(1) the amount of wages paid to each eligible employee in a new high-wage economic-based job during each qualifying period;

(2) the number of weeks the position was occupied during the qualifying period;

(3) whether the new high-wage economic-based job was in a municipality with a population of forty thousand or more or with a population of less than forty thousand according to the most recent federal decennial census and whether the job was in the unincorporated area of a county; and

(4) the total number of employees employed by the employer at the job location on the day prior to the qualifying period and on the last day of the qualifying period.

F. To receive a high-wage jobs tax credit with respect to any qualifying period, an eligible employer shall apply to the taxation and revenue department on forms and in the manner prescribed by the department. The application shall include a certification made pursuant to Subsection E of this section.

G. The credit provided in this section may be deducted from the modified combined tax liability of a taxpayer. If the credit exceeds the modified combined tax liability of the taxpayer, the excess shall be refunded to the taxpayer.

H. As used in this section:

(1) "benefits" means any employee benefit plan as defined in Title 1, Section 3 of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. 1002;

(2) "eligible employee" means an individual who is employed by an eligible employer and who is a resident of New Mexico; "eligible employee" does not include an individual who:

(a) bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, to an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interest in the entity;

(b) if the employer is an estate or trust, is a grantor, beneficiary or fiduciary of the estate or trust or is an individual who bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary of the estate or trust;

(c) is a dependent, as that term is described in 26 U.S.C. Section 152(a)(9), of the employer or, if the taxpayer is a corporation, of an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, of an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interest in the entity or, if the employer is an estate or trust, of a grantor, beneficiary or fiduciary of the estate or trust; or

(d) is working or has worked as an employee or as an independent contractor for an entity that directly or indirectly owns stock in a corporation of the eligible employer or other interest of the eligible employer that represents fifty percent or more of the total voting power of that entity or has a value equal to fifty percent or more of the capital and profits interest in the entity;

(3) "eligible employer" means an employer that:

(a) made more than fifty percent of its sales to persons outside New Mexico during the most recent twelve months of the employer's modified combined tax liability reporting periods ending prior to claiming a high-wage jobs tax credit; or

(b) is eligible for development training program assistance pursuant to Section 21-19-7 NMSA 1978;

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

(5) "new high-wage economic-based job" means a job created by an eligible employer on or after July 1, 2004 and prior to July 1, 2009 that is occupied for at least forty-eight weeks of a qualifying period by an eligible employee who is paid wages calculated for the qualifying period to be at least:

(a) forty thousand dollars (\$40,000) if the job is performed or based in a municipality with a population of forty thousand or more according to the most recent federal decennial census; and

(b) twenty-eight thousand dollars (\$28,000) if the job is performed or based in a municipality with a population of less than forty thousand according to the most recent federal decennial census or in the unincorporated area of a county;

(6) "qualifying period" means the period of twelve months beginning on the day an eligible employee begins working in a new high-wage economic-based job or the period of twelve months beginning on the anniversary of the day an eligible employee began working in a new high-wage economic-based job; and

(7) "wages" means wages as defined in Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c)."

## **Chapter 172 Section 22 Laws 2007**

Section 22. Section 7-14A-3.1 NMSA 1978 (being Laws 1993, Chapter 359, Section 1) is amended to read:

### **"7-14A-3.1. IMPOSITION AND RATE--LEASED VEHICLE SURCHARGE.--**

A. Except as provided in Subsection B of this section, there is imposed a surcharge on the leasing of a vehicle to another person by a person engaging in business in New Mexico if the lease is subject to the leased vehicle gross receipts tax. The amount of this surcharge is two dollars (\$2.00) for each day the vehicle is leased by the person. The surcharge may be referred to as the "leased vehicle surcharge".

B. The leased vehicle surcharge imposed in Subsection A of this section shall not apply to the lease of a temporary replacement vehicle if the lessee signs a statement

that the temporary replacement vehicle is to be used as a replacement for another vehicle that is being repaired, serviced or replaced. For the purposes of this section, "temporary replacement vehicle" means a vehicle that is:

(1) used by an individual in place of another vehicle that is unavailable for use by the individual due to loss, damage, mechanical breakdown or need for servicing; and

(2) leased temporarily by or on behalf of the individual or loaned temporarily to the individual by a vehicle repair facility or dealer while the other vehicle is being repaired, serviced or replaced."

### **Chapter 172 Section 23 Laws 2007**

Section 23. TEMPORARY PROVISION.--In taxable years 2013 through 2015, a taxpayer may carry forward amounts resulting from angel investment credits claimed and approved for qualified investments made in the calendar year 2009, 2010 or 2011.

### **Chapter 172 Section 24 Laws 2007**

Section 24. DELAYED REPEAL.--Section 1 of this act is repealed effective January 1, 2013.

### **Chapter 172 Section 25 Laws 2007**

Section 25. REPEAL.--Laws 2004, Chapter 15, Section 2 is repealed.

### **Chapter 172 Section 26 Laws 2007**

Section 26. CONTINUED APPLICABILITY OF RURAL JOB TAX CREDIT.--The balance of a rural job tax credit granted by and remaining on a tax credit document issued prior to July 1, 2006 may be applied after that date in the manner provided in Section 2 of this act against a holder's modified combined tax liability or personal income tax or corporate income tax liability.

### **Chapter 172 Section 27 Laws 2007**

Section 27. APPLICABILITY OF RURAL JOB TAX CREDIT.--The provisions of Section 2 of this act apply to tax returns filed on or after the effective date of that section:

A. for rural job tax credit claims against a taxpayer's modified combined tax liability, for qualified jobs created in the calendar quarters beginning on or after July 1, 2006; and

B. for rural job tax credit claims against a taxpayer's personal income tax liability or corporate income tax liability, for qualified jobs created in taxable years beginning on or after January 1, 2006.

### **Chapter 172 Section 28 Laws 2007**

Section 28. APPLICABILITY.--The provisions of Sections 1, 3 and 4 of this act apply to taxable years beginning on or after January 1, 2007.

### **Chapter 172 Section 29 Laws 2007**

Section 29. CONTINGENT EFFECTIVE DATE--NOTIFICATION.--The effective date of the provisions of Sections 12 and 13 of this act is July 1, 2009, provided that prior to January 1, 2009, the economic development department certifies to the taxation and revenue department that construction of a railroad locomotive refueling facility project in Dona Ana county has commenced, including land acquisition, acquisition of all necessary permits and commencement of actual construction. The taxation and revenue department shall notify the New Mexico compilation commission and the director of the legislative council service prior to July 1, 2009 as to whether the certification from the economic development department has been received.

### **Chapter 172 Section 30 Laws 2007**

Section 30. EFFECTIVE DATE.--The effective date of the provisions of Sections 3 through 5, 7 through 11 and 14 through 22 of this act is July 1, 2007.

### **Chapter 172 Section 31 Laws 2007**

Section 31. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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House Bill 839, as amended

with emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 173**

AN ACT

RELATING TO THE PUBLIC SCHOOLS; ENACTING THE PUBLIC SCHOOL LEASE PURCHASE ACT; ALLOWING, UNDER CERTAIN CIRCUMSTANCES, PUBLIC

SCHOOL FACILITIES TO BE ACQUIRED PURSUANT TO LEASE PURCHASE ARRANGEMENTS; AUTHORIZING ADDITIONAL PROPERTY TAXES FOR SCHOOL DISTRICTS UPON THE APPROVAL OF THE QUALIFIED ELECTORS; MAKING AN APPROPRIATION.

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

### **Chapter 173 Section 1 Laws 2007**

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

"SHORT TITLE.--Sections 1 through 20 of this act may be cited as the "Public School Lease Purchase Act"."

### **Chapter 173 Section 2 Laws 2007**

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

"PURPOSE.--The purpose of the Public School Lease Purchase Act is to implement the provision of Article 9, Section 11 of the constitution of New Mexico, as approved by the voters of the state of New Mexico at the general election held in November 2006, which declares that a financing agreement entered into by a school district or a charter school for leasing of a building or other real property with an option to purchase for a price that is reduced according to the payments made by the school district or charter school pursuant to the financing agreement is not a debt if:

A. there is no legal obligation for the school district or charter school to continue the lease from year to year or to purchase the real property; and

B. the agreement provides that the lease shall be terminated if sufficient money is not available to meet the current lease payments."

### **Chapter 173 Section 3 Laws 2007**

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

"DEFINITIONS.--As used in the Public School Lease Purchase Act:

A. "financing agreement" or "lease purchase arrangement" means an agreement for the leasing of a building or other real property with an option to purchase for a price that is reduced according to the payments made, which periodic lease payments composed of principal and interest components are to be paid to the holder of the agreement and pursuant to which the owner of the building or other real property may retain title to or a security interest in the building or other real property and may agree to release the security interest or transfer title to the building or other real property to the

school district for nominal consideration after payment of the final periodic lease payment;

B. except as limited by Section 19 of the Public School Lease Purchase Act, "local school board" includes the governing body of a locally chartered or state-chartered charter school; and

C. except as limited by Section 19 of the Public School Lease Purchase Act, "school district" includes a locally chartered or state-chartered charter school."

## **Chapter 173 Section 4 Laws 2007**

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

"NOTICE OF PROPOSED LEASE PURCHASE ARRANGEMENT--APPROVAL OF DEPARTMENT.--

A. When a school district contemplates entering into a lease purchase arrangement for a building or other real property payable in whole or in part from ad valorem taxes, the local school board, before initiating any proceedings for approval of such a lease purchase arrangement, shall forward to the department a copy of the proposed lease purchase arrangement and the source of funds that the local school board has identified to make payments due under the lease purchase arrangement.

B. A local school board shall not enter into a lease purchase arrangement without the approval of the department."

## **Chapter 173 Section 5 Laws 2007**

Section 5. A new section of the Public School Code is enacted to read:

"LEASE PURCHASE ARRANGEMENTS--TERMS.--Lease purchase arrangements:

A. may have payments payable at intervals or at maturity as may be determined by the local school board;

B. may be subject to prepayment at the option of the local school board at such time or times and upon such terms and conditions with or without the payment of such premium or premiums as may be determined by the local school board;

C. may have a final payment date or mature at any time or times not exceeding twenty years after the date of execution;

D. may be payable at one time or in installments or may be in such other form as may be determined by the local school board;

E. may be priced at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act;

F. may be acquired or executed by public bid, by negotiated sale or placement or directly negotiated or placed with the owner of the building or other real property subject to the lease purchase arrangement;

G. shall provide that there is no legal obligation for the school district to continue the lease purchase arrangement from year to year or to purchase the building or other real property; and

H. shall provide that the lease purchase arrangement shall be terminated if sufficient money is not available to meet any current lease payment."

## **Chapter 173 Section 6 Laws 2007**

Section 6. A new section of the Public School Code is enacted to read:

"AUTHORIZING LEASE PURCHASE ARRANGEMENTS--RESOLUTION.--

A. If a local school board proposes to acquire a building or other real property through a lease purchase arrangement, it shall comply with the requirements of this section.

B. At a regular meeting or at a special meeting called for the purpose of considering the acquisition of a building or other real property through a lease purchase arrangement, a local school board shall:

(1) make a determination of the necessity for acquiring the building or other real property through a lease purchase arrangement;

(2) determine the estimated cost of the buildings or other real property needed;

(3) review a summary of the terms of the proposed lease purchase arrangement;

(4) identify the source of funds for the lease purchase payments;

(5) if obtaining all or part of the funds needed requires or anticipates the imposition of a property tax, determine the estimated rate of the tax and what, if any, the percentage increase in property taxes will be for real property owners in the school district; and

(6) if the board agrees that the lease purchase arrangement is in the best interest of the school district, forward a copy of the arrangement to the department pursuant to Section 4 of the Public School Lease Purchase Act.

C. After receiving department approval of the lease purchase arrangement, the local school board may adopt a final resolution approving the lease purchase of the building or other real property. If the local school board finds that obtaining all or part of the funds needed for the lease purchase arrangement requires the imposition of a property tax, the board may also adopt a resolution to be presented to the voters pursuant to Section 8 of the Public School Lease Purchase Act, provided that, before adopting the resolution, the local school board shall consider, at a public meeting, requests by a charter school for funds needed for a lease purchase arrangement entered into by the charter school. If the local school board determines that the revenue from the proposed tax should also be used for the lease purchase arrangement entered into by the charter school, then, if the tax is approved in an election pursuant to Sections 8 through 12 of the Public School Lease Purchase Act, the local school board shall distribute an amount of the tax revenue, as established in its determination, to the charter school to be used in the lease purchase arrangement.

D. The local school board shall not adopt a resolution for or approve a lease purchase arrangement for a term that exceeds twenty years."

## **Chapter 173 Section 7 Laws 2007**

Section 7. A new section of the Public School Code is enacted to read:

"PAYMENTS UNDER LEASE PURCHASE ARRANGEMENTS.--A school district may apply any legally available funds to the payments due on or any prepayment premium payable in connection with lease purchase arrangements as they become due, including any combination of:

- A. money from the school district's general fund;
- B. investment income actually received from investments;
- C. proceeds from taxes imposed to pay school district general obligation bonds or taxes imposed pursuant to the Public School Capital Improvements Act, the Public School Buildings Act or the Educational Technology Equipment Act;
- D. revenues received from the sale of bonds or notes pursuant to the School Revenue Bond Act or the School District Bond Anticipation Notes Act;
- E. loans, grants or lease payments received from the public school capital outlay council pursuant to the Public School Capital Outlay Act;

F. state distributions to the school district pursuant to the Public School Improvements Act;

G. fees or assessments received by the school district;

H. proceeds from the sale of real property and rental income received from the rental or leasing of school district property;

I. grants from the federal government as assistance to those areas affected by federal activity authorized in accordance with Title 20 of the United States Code, commonly known as "PL 874 funds" or "impact aid"; and

J. revenues from the tax authorized pursuant to Sections 8 through 12 of the Public School Lease Purchase Act, if proposed by the local school board and approved by the voters."

## **Chapter 173 Section 8 Laws 2007**

Section 8. A new section of the Public School Code is enacted to read:

"AUTHORIZATION FOR LOCAL SCHOOL BOARD TO SUBMIT QUESTION OF LEASE PURCHASE TAX.--A local school board may adopt a resolution to submit to the qualified electors of the school district the question of whether a property tax at a rate not to exceed the rate specified in the resolution should be imposed upon the net taxable value of property allocated to the school district under the Property Tax Code for the purpose of making payments under a specific lease purchase arrangement. The resolution shall:

A. specify the rate of the proposed tax, which shall not exceed ten dollars (\$10.00) on each one thousand dollars (\$1,000) of net taxable value of property allocated to the school district under the Property Tax Code;

B. specify the date an election will be held to submit the question of imposition of the tax to the qualified electors of the district; and

C. limit the imposition of the proposed tax to no more than twenty property tax years."

## **Chapter 173 Section 9 Laws 2007**

Section 9. A new section of the Public School Code is enacted to read:

"AUTHORIZING RESOLUTION--TIME LIMITATION.--The resolution authorized under Section 8 of the Public School Lease Purchase Act shall be adopted no later than May 15 in the year in which the tax is proposed to be imposed."

## **Chapter 173 Section 10 Laws 2007**

Section 10. A new section of the Public School Code is enacted to read:

"CONDUCT OF ELECTION--NOTICE--BALLOT.--

A. An election on the question of imposing a tax under Sections 8 through 12 of the Public School Lease Purchase Act may be held in conjunction with a regular school district election or may be conducted as or held in conjunction with a special school district election, but the election shall be held prior to July 1 of the property tax year in which the tax is proposed to be imposed. Conduct of the election shall be as prescribed in the School Election Law for regular and special school district elections.

B. The resolution required to be published as notice of the election under Section 1-

22-4 or 1-22-5 NMSA 1978 shall include as the question to be submitted to the voters whether a property tax at a rate not to exceed the rate specified in the authorizing resolution should be imposed for the specified number of property tax years not exceeding twenty years upon the net taxable value of all property allocated to the school district for payments due under lease purchase arrangements.

C. The ballot shall include the information specified in Subsection B of this section and shall present the voter the choice of voting "for the lease purchase tax" or "against the lease purchase tax".

## **Chapter 173 Section 11 Laws 2007**

Section 11. A new section of the Public School Code is enacted to read:

"ELECTION RESULTS--CERTIFICATION.--The certification of the results of an election held on the question of imposition of a lease purchase tax shall be made in accordance with the School Election Law, and a copy of the certificate of results shall be mailed immediately to the secretary."

## **Chapter 173 Section 12 Laws 2007**

Section 12. A new section of the Public School Code is enacted to read:

"IMPOSITION OF TAX--LIMITATIONS.--If as a result of an election held in accordance with Sections 8 through 11 of the Public School Lease Purchase Act a majority of the qualified electors voting on the question votes in favor of the imposition of the tax, the tax rate shall be certified, unless the local school board directs that the tax levy not be made for the year, by the department of finance and administration at the rate specified in the authorizing resolution and the tax shall be imposed at the rate certified in accordance with the provisions of the Property Tax Code. The revenue

produced by the tax shall be expended only for payments due under lease purchase arrangements, as specified in the authorizing resolution."

### **Chapter 173 Section 13 Laws 2007**

Section 13. A new section of the Public School Code is enacted to read:

"PUBLICATION OF NOTICE--VALIDATION.--

A. After adoption of a resolution approving a lease purchase arrangement, the local school board shall publish notice of the adoption of the resolution once in a newspaper of general circulation in the school district.

B. After the passage of thirty days from the publication required by Subsection A of this section, any action attacking the validity of the proceedings taken by the local school board preliminary to and in the authorization of and entering into the lease purchase arrangement described in the notice is perpetually barred."

### **Chapter 173 Section 14 Laws 2007**

Section 14. A new section of the Public School Code is enacted to read:

"REFUNDING OR REFINANCING LEASE PURCHASE ARRANGEMENTS.--

School districts may enter into lease purchase arrangements for the purpose of refunding or refinancing any lease purchase arrangements then outstanding, including the payment of any prepayment premiums thereon and any interest accrued or to accrue to the date of prepayment maturity of the outstanding lease purchase arrangements. Until the proceeds of the lease purchase arrangements issued for the purpose of refunding or refinancing outstanding lease purchase arrangements are applied to the prepayment or retirement of the outstanding lease purchase arrangements, the proceeds may be placed in escrow and invested and reinvested. The interest, income and profits, if any, earned or realized on any such investment may, in the discretion of the local school board, also be applied to the payment of the outstanding lease purchase arrangements to be refunded or refinanced by prepayment or retirement, as the case may be. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, if any, earned or realized on the investments thereof may be returned to the local school board to be used for payment of the refunding or refinancing lease purchase arrangement. If the proceeds from a tax imposed pursuant to Sections 8 through 12 of the Public School Lease Purchase Act were used as a source of payments for the refunded lease purchase arrangement, the proceeds may continue to be used for the refunding or refinancing lease purchase arrangements without the requirement of an additional election on the issue."

### **Chapter 173 Section 15 Laws 2007**

Section 15. A new section of the Public School Code is enacted to read:

"AGREEMENT OF THE STATE.--The state does hereby pledge to and agree with the holders of any lease purchase arrangement entered into under the Public School Lease Purchase Act that the state will not limit or alter the rights hereby vested in school districts to fulfill the terms of any lease purchase arrangement or in any way impair the rights and remedies of the holders of lease purchase arrangements until the payments due thereon, and all costs and expenses in connection with any action or proceedings by or on behalf of those holders, are fully met and discharged. School districts are authorized to include this pledge and agreement of the state in any lease purchase arrangement."

### **Chapter 173 Section 16 Laws 2007**

Section 16. A new section of the Public School Code is enacted to read:

"LEGAL INVESTMENTS FOR PUBLIC OFFICERS AND FIDUCIARIES.--Lease purchase arrangements entered into under the authority of the Public School Lease Purchase Act shall be legal investments in which all insurance companies, banks and savings and loan associations organized under the laws of the state, public officers and public bodies and all administrators, guardians, executors, trustees and other fiduciaries may properly and legally invest funds."

### **Chapter 173 Section 17 Laws 2007**

Section 17. A new section of the Public School Code is enacted to read:

"TAX EXEMPTION.--The state covenants with the original holder and all subsequent holders and transferees of lease purchase arrangements entered into by the local school boards, in consideration of the acceptance of and payment for the lease purchase arrangements entered into pursuant to the Public School Lease Purchase Act, that lease purchase arrangements and the income from the lease purchase arrangements shall at all times be free from taxation by the state, except for estate or gift taxes and taxes on transfers."

### **Chapter 173 Section 18 Laws 2007**

Section 18. A new section of the Public School Code is enacted to read:

"CUMULATIVE AND COMPLETE AUTHORITY.--The Public School Lease Purchase Act shall be deemed to provide an additional and alternative method for acquiring buildings and other real property authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as a derogation of any powers now existing. The Public School Lease Purchase Act shall be deemed to provide complete authority for acquiring buildings and other real property and entering into lease purchase arrangements contemplated

thereby, and no other approval of any state agency or officer, except as provided therein, shall be required with respect to any lease purchase arrangements, and the local school board acting thereunder need not comply with the requirements of any other law applicable to the issuance of debt by school districts."

### **Chapter 173 Section 19 Laws 2007**

Section 19. A new section of the Public School Code is enacted to read:

"LEASE PURCHASE ARRANGEMENTS FOR CHARTER SCHOOLS.--A locally chartered or state-chartered charter school may enter into a lease purchase arrangement pursuant to the Public School Lease Purchase Act, provided that a governing body of a charter school shall not propose a tax or conduct an election pursuant to Sections 8 through 12 of that act, but nothing in this section prevents a charter school from receiving revenue from a tax proposed by the local school board for the district in which the charter school is located and approved by the voters."

### **Chapter 173 Section 20 Laws 2007**

Section 20. A new section of the Public School Code is enacted to read:

"LIBERAL INTERPRETATION.--The Public School Lease Purchase Act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purposes."

### **Chapter 173 Section 21 Laws 2007**

Section 21. Section 22-18-1 NMSA 1978 (being Laws 1967, Chapter 16, Section 228, as amended) is amended to read:

"22-18-1. GENERAL OBLIGATION BONDS--AUTHORITY TO ISSUE.--

A. After consideration of the priorities for the school district's capital needs as shown by the facility assessment database maintained by the public school facilities authority and subject to the provisions of Article 9, Section 11 of the constitution of New Mexico and Sections 6-15-1 and 6-15-2 NMSA 1978, a school district may issue general obligation bonds for the purpose of:

(1) erecting, remodeling, making additions to and furnishing school buildings;

(2) purchasing or improving school grounds;

(3) purchasing computer software and hardware for student use in public schools;

(4) providing matching funds for capital outlay projects funded pursuant to the Public School Capital Outlay Act;

(5) making payments pursuant to a financing agreement entered into by the school district or a charter school located in the school district for the leasing of a building or other real property with an option to purchase for a price that is reduced according to payments made; or

(6) any combination of these purposes.

B. The bonds shall be fully negotiable and constitute negotiable instruments within the meaning and for all purposes of the Uniform Commercial Code."

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House Bill 843, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 174**

### AN ACT

RELATING TO LICENSING; EXEMPTING PRACTITIONERS OF CERTAIN HEALING MODALITIES FROM THE MASSAGE THERAPY PRACTICE ACT.

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

### **Chapter 174 Section 1 Laws 2007**

Section 1. Section 61-12C-5.1 NMSA 1978 (being Laws 2001, Chapter 121, Section 1) is amended to read:

"61-12C-5.1. EXEMPTIONS.--Nothing in the Massage Therapy Practice Act shall be construed to prevent:

A. qualified members of other recognized professions that are licensed or regulated under New Mexico law from rendering services within the scope of their licenses or regulations; provided they do not represent themselves as massage therapists;

B. students from rendering massage therapy services within the course of study of an approved massage therapy school and under the supervision of a licensed massage therapy instructor;

C. visiting massage therapy instructors from another state or territory of the United States, the District of Columbia or a foreign nation from teaching massage therapy; provided the instructor is duly licensed or registered, if required, and is qualified in the instructor's place of residence for the practice of massage therapy. The board shall establish by rule the duration of stay for a visiting massage therapy instructor; and

D. sobadores; Hispanic traditional healers; Native American healers; reflexologists whose practices are limited to hands, feet and ears; practitioners of polarity, Trager approach, Feldenkrais method, craniosacral therapy, Rolfing structural integration, reiki, ortho-bionomy or ch'i gung; or practitioners of healing modalities not listed in this subsection who do not manipulate the soft tissues for therapeutic purposes from practicing those skills. An exempt practitioner who applies for a license or registration pursuant to the Massage Therapy Practice Act shall comply with all licensure requirements of that act."

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House Bill 847

Approved April 2, 2007

## **LAWS 2007, CHAPTER 175**

AN ACT

RELATING TO MOTOR VEHICLES; CLARIFYING STATE POLICE AUTHORITY TO CLOSE STATE HIGHWAYS.

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

### **Chapter 175 Section 1 Laws 2007**

Section 1. Section 66-7-11 NMSA 1978 (being Laws 1987, Chapter 280, Section 1) is amended to read:

"66-7-11. NEW MEXICO STATE POLICE POWER TO CLOSE CERTAIN HIGHWAYS IN EMERGENCIES.--Notwithstanding any rule or agreement of the department of transportation, the New Mexico state police, in cases of emergency where the condition of a state, United States or interstate highway presents a substantial danger to vehicular travel by reason of storm, fire, accident, spillage of hazardous materials or other unusual or dangerous conditions, may temporarily close such highway to vehicular travel; provided that the state police shall use all means necessary to reroute traffic around the accident or incident scene using lanes, shoulders, frontage roads or alternative routes that may be available and physically unaffected by the accident or incident. The department of transportation shall be notified of the highway closure as soon as practicable and assist the state police with traffic

control. During the course of any investigation where evidence is present in the travel portion of the roadway, such evidence shall be documented and collected first so that the roadway can be cleared and traffic can be routed through the scene. Any other law enforcement agency that may be investigating an accident or incident where the investigating agency believes closure of the highway is necessary shall contact the state police immediately. The state police shall evaluate the emergency situation and determine if the closure is necessary and, with the assistance of the investigating agency, shall reroute traffic around the accident or incident scene. The state police shall make the final determination regarding the length of time it is necessary to have the highway closed and other law enforcement agencies shall adhere to the directions of the state police."

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House Bill 902, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 176**

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING FOR FREE SPECIAL REGISTRATION PLATES FOR NATIONAL GUARD MEMBERS.

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

### **Chapter 176 Section 1 Laws 2007**

Section 1. Section 66-3-413 NMSA 1978 (being Laws 1980, Chapter 45, Section 1, as amended) is amended to read:

"66-3-413. SPECIAL REGISTRATION PLATES.--

A. The division shall issue distinctive registration plates to any person who is a member of the New Mexico national guard, upon the submission by the person of proof satisfactory to the division that the person is currently a member of the guard. No fee, including the regular registration fee applicable to passenger motor vehicles, shall be collected for issuance of a special registration plate pursuant to this section.

B. No person shall falsely represent that the person is an active member of the New Mexico national guard so as to be eligible to be issued special registration plates pursuant to this section when the person in fact is not a current member of the New Mexico national guard.

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

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House Bill 907

Approved April 2, 2007

## **LAWS 2007, CHAPTER 177**

AN ACT

RELATING TO UNDERGROUND UTILITIES; REVISING A DEFINITION; REVISING THE PIPELINE ONE-CALL NOTIFICATION SYSTEM.

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

### **Chapter 177 Section 1 Laws 2007**

Section 1. Section 62-14-2 NMSA 1978 (being Laws 1973, Chapter 252, Section 2, as amended) is amended to read:

"62-14-2. DEFINITIONS.--As used in Chapter 62, Article 14 NMSA 1978:

- A. "advance notice" means two working days;
- B. "blasting" means the use of an explosive to excavate;
- C. "cable television lines and related facilities" means the facilities of any cable television system or closed-circuit coaxial cable communications system or other similar transmission service used in connection with any cable television system or other similar closed-circuit coaxial cable communications system;
- D. "commission" means the public regulation commission;
- E. "emergency excavation" means an excavation that must be performed due to circumstances beyond the excavator's control and that affects public safety, health or welfare;
- F. "excavate" means the movement or removal of earth using mechanical excavating equipment or blasting and includes augering, backfilling, digging, ditching, drilling, grading, plowing in, pulling in, ripping, scraping, trenching, tunneling and directional boring;
- G. "excavator" means a person that excavates;

H. "means of location" means a mark such as a stake, a flag, whiskers or paint that is conspicuous in nature and that is designed to last at least ten working days if not disturbed;

I. "mechanical excavating equipment" means all equipment powered by any motor, engine or hydraulic or pneumatic device used for excavating and includes trenchers, bulldozers, backhoes, power shovels, scrapers, draglines, clam shells, augers, drills, cable and pipe plows or other plowing-in or pulling-in equipment;

J. "one-call notification system" means a communication system in which an operation center provides telephone services or other reliable means of communication for the purpose of receiving excavation notice information and distributing that information to owners and operators of pipelines and other underground facilities;

K. "person" means the legal representative of or an individual, partnership, corporation, joint venture, state, subdivision or instrumentality of the state or an association;

L. "pipeline" means a pipeline or system of pipelines and appurtenances for the transportation or movement of any oil or gas, or oil or gas products and their byproducts subject to the jurisdiction of federal law or regulation;

M. "reasonable efforts" means notifying the appropriate one-call notification center or underground facility owner or operator of planned excavation;

N. "underground facility" means any tangible property described in Subsections C, L and O of this section that is underground, but does not include residential sprinklers or low-voltage lighting; and

O. "underground utility line" means an underground conduit or cable, including fiber optics, and related facilities for transportation and delivery of electricity, telephonic or telegraphic communications or water, sewer and fire protection lines."

## **Chapter 177 Section 2 Laws 2007**

Section 2. Section 62-14-7.1 NMSA 1978 (being Laws 1997, Chapter 30, Section 1, as amended) is amended to read:

### **"62-14-7.1. PIPELINE ONE-CALL NOTIFICATION SYSTEM.--**

A. If a one-call system is operating in the region, an owner or operator of an underground facility subject to Chapter 62, Article 14 NMSA 1978 shall be a member of a one-call notification system by April 15, 2008, unless earlier membership is required by federal law. A one-call notification system may be for a region of the state or statewide in scope, unless federal law provides otherwise.

B. Each one-call notification system shall be operated by:

(1) an owner or operator of pipeline facilities;

(2) a private contractor;

(3) a state or local government agency; or

(4) a person who is otherwise eligible under state law to operate a one-call notification system.

C. If the one-call notification system is operated by owners or operators of pipeline facilities, it shall be established as a nonprofit entity governed by a board of directors that shall establish the operating processes, procedures and technology needed for a one-call notification system. The board shall further establish a procedure or formula to determine the equitable share of each member for the costs of the one-call notification system. The board may include representatives of excavators or other persons deemed eligible to participate in the system who are not owners or operators.

D. Excavators shall give advance notice to the one-call notification system operating in the intended excavation area and provide information established by rule of the commission, except when excavations are by or for a person that:

(1) owns or leases or owns a mineral leasehold interest in the real property on which the excavation occurs; and

(2) operates all underground facilities located in the intended excavation area.

E. The one-call notification system shall promptly transmit excavation notice information to owners or operators of pipeline facilities in the intended excavation area.

F. After receiving advance notice, owners and operators of pipeline facilities shall locate and mark their pipeline facilities in the intended excavation area.

G. The one-call notification system shall provide a toll-free telephone number or another comparable and reliable means of communication to receive advance notice of excavation. Means of communication to distribute excavation notice to owners or operators of pipeline facilities shall be reliable and capable of coordination with one-call notification systems operating in other regions of the state.

H. Operators of one-call notification systems shall notify the commission of its members and the name and telephone number of the contact person for each member and make available to the commission appropriate records in investigations of alleged violations of Chapter 62, Article 14 NMSA 1978.

I. One-call notification systems and owners and operators of pipeline facilities shall promote public awareness of the availability and operation of one-call notification systems and work with state and local governmental agencies charged with issuing excavation permits to provide information concerning and promoting awareness by excavators of one-call notification systems.

J. The commission may prescribe reasonable maximum rates for the provision of one-call services in New Mexico, provided that if the reasonableness of such rates is contested in the manner provided by commission rule, the burden of proof to show the unreasonableness of such rates shall be upon the person contesting their reasonableness."

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House Bill 908, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 178**

### AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING EACH SCHOOL DISTRICT TO HAVE UNIFORM CURRICULA FOR EACH GRADE LEVEL AND SUBJECT AREA; REQUIRING PROFESSIONAL DEVELOPMENT FOR CLASSROOM TEACHERS AND EDUCATIONAL ASSISTANTS TO BE ALIGNED WITH CURRICULA.

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

### **Chapter 178 Section 1 Laws 2007**

Section 1. A new section of Chapter 22, Article 13 NMSA 1978 is enacted to read:

"UNIFORM GRADE AND SUBJECT CURRICULA--PROFESSIONAL DEPARTMENT.--

A. Each school district shall align its curricula to meet the state standards for each grade level and subject area so that students who transfer between public schools within the school district receive the same educational opportunity within the same grade or subject area.

B. Each school district's aligned grade level and subject area curricula shall be in place as follows:

(1) for mathematics, by the 2008-2009 school year; and

(2) for language arts and science, by the 2009-2010 school year.

C. Professional development relating to curricula for classroom teachers and educational assistants shall be aligned with state standards by each school district."

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House Bill 911, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 179**

AN ACT

RELATING TO STATE AFFAIRS; ADOPTING THE OFFICIAL ANSWER OF NEW MEXICO.

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

### **Chapter 179 Section 1 Laws 2007**

Section 1. Section 12-3-4 NMSA 1978 (being Laws 1927, Chapter 102, Section 1, as amended by Laws 2005, Chapter 4, Section 1 and by Laws 2005, Chapter 254, Section 1) is amended to read:

"12-3-4. STATE FLOWER--STATE BIRD--STATE TREE--STATE FISH--STATE ANIMAL--STATE VEGETABLES--STATE GEM--STATE GRASS--STATE FOSSIL--STATE COOKIE--STATE INSECT--STATE QUESTION--STATE ANSWER--STATE NICKNAME--STATE BUTTERFLY--STATE REPTILE--STATE AMPHIBIAN--STATE AIRCRAFT--STATE HISTORIC RAILROAD.--

- A. The yucca flower is adopted as the official flower of New Mexico.
- B. The chaparral bird, commonly called roadrunner, is adopted as the official bird of New Mexico.
- C. The nut pine or pinon tree, scientifically known as *Pinus edulis*, is adopted as the official tree of New Mexico.
- D. The native New Mexico cutthroat trout is adopted as the official fish of New Mexico.
- E. The native New Mexico black bear is adopted as the official animal of New Mexico.

F. The chile, the Spanish adaptation of the chilli, and the pinto bean, commonly known as the frijol, are adopted as the official vegetables of New Mexico.

G. The turquoise is adopted as the official gem of New Mexico.

H. The blue grama grass, scientifically known as *Bouteloua gracillis*, is adopted as the official grass of New Mexico.

I. The *Coelophysis* is adopted as the official fossil of New Mexico.

J. The bizcochito is adopted as the official cookie of New Mexico.

K. The tarantula hawk wasp, scientifically known as *Pepsis formosa*, is adopted as the official insect of New Mexico.

L. "Red or green?" is adopted as the official question of New Mexico.

M. "Red and green or Christmas" is adopted as the official answer of New Mexico.

N. "The Land of Enchantment" is adopted as the official nickname of New Mexico.

O. The Sandia hairstreak is adopted as the official butterfly of New Mexico.

P. The New Mexico whiptail lizard, scientifically known as *Cnemidophorus neomexicanus*, is adopted as the official reptile of New Mexico.

Q. The New Mexico spadefoot toad, scientifically known as *Spea multiplicata*, is adopted as the official amphibian of New Mexico.

R. The hot air balloon is adopted as the official aircraft of New Mexico.

S. The Cumbres and Toltec scenic railroad is adopted as the official historic railroad of New Mexico."

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House Bill 924, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 180**

AN ACT

RELATING TO BUSINESS DEVELOPMENT; CREATING A PROGRAM TO MENTOR AND ASSIST SMALL, MINORITY-OWNED BUSINESSES IN DEVELOPING THE BUSINESS PRACTICES, TECHNICAL COMPETENCE AND EXPERTISE IN BUSINESS ETHICS, ACCOUNTING PRINCIPLES AND GOVERNMENT PROCUREMENT THAT WILL ALLOW THEM TO COMPETE IN A MODERN BUSINESS ENVIRONMENT; ENACTING THE MINORITY BUSINESS ASSISTANCE ACT.

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

### **Chapter 180 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "Minority Business Assistance Act".

### **Chapter 180 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the Minority Business Assistance Act:

A. "department" means the economic development department; and

B. "minority business" means a business, with its principal place of business in New Mexico:

(1) the majority ownership of which is held by individuals who are residents of New Mexico and African Americans, Hispanic Americans, Asian Americans or Native Americans; and

(2) that employs twenty or fewer people.

### **Chapter 180 Section 3 Laws 2007**

Section 3. MINORITY BUSINESS ASSISTANCE PROGRAM--DEPARTMENT DUTIES AND POWERS.--

A. The department shall develop and implement a minority business assistance program to facilitate the entrance of minority businesses, located throughout the state, into the marketplace. As part of the development and implementation of the program, the department, in collaboration with the labor department, shall:

(1) develop a process to define and identify minority businesses that may benefit from additional assistance and training in the areas of general business practices, accounting principles, business ethics, technical expertise, marketing and government procurement;

(2) develop a registry of well-established businesses, individuals within those businesses, retirees and other persons that have the expertise and skills that may be needed by minority businesses and that have expressed a desire to volunteer as a mentor or otherwise to assist minority businesses;

(3) develop an outreach and marketing program so that minority businesses may become aware of the assistance available and so that needed, experienced individuals are aware of the opportunity to mentor and assist minority businesses;

(4) develop training materials and in-house training expertise; and

(5) create a mentorship program in which employees or agents of the department or volunteers with business experience will visit minority businesses for the purpose of training, mentoring, advising and otherwise assisting the minority businesses in the development or improvement of general business practices, accounting principles, business ethics, technical expertise, marketing and government procurement.

B. In performing its duties under the Minority Business Assistance Act, the department may:

(1) to the extent money has been appropriated for such purposes, develop a grant program for minority businesses to acquire the expertise necessary to compete effectively; and

(2) do all other things necessary and proper to effectuate the purpose of the Minority Business Assistance Act.

C. All state agencies shall cooperate with the department in carrying out the provisions of the Minority Business Assistance Act and shall, as the opportunity arises, assist minority businesses and encourage other businesses and individuals to register as volunteers under that act.

## **Chapter 180 Section 4 Laws 2007**

Section 4. MINORITY BUSINESS ASSISTANCE FUND CREATED.--The "minority business assistance fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year. Money in the fund is subject to appropriation by the legislature to the department for the purposes of carrying out the provisions of the Minority Business Assistance Act. Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of economic development.

## **Chapter 180 Section 5 Laws 2007**

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 955, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 181**

AN ACT

RELATING TO HEALTH; ENACTING THE BODY ART SAFE PRACTICES ACT; AMENDING THE BARBERS AND COSMETOLOGISTS ACT; MAKING AN APPROPRIATION.

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

### **Chapter 181 Section 1 Laws 2007**

Section 1. SHORT TITLE.--Sections 1 through 14 of this act may be cited as the "Body Art Safe Practices Act".

### **Chapter 181 Section 2 Laws 2007**

Section 2. PURPOSE.--The purpose of the Body Art Safe Practices Act is to provide a safe and healthy environment for the administration of body art.

### **Chapter 181 Section 3 Laws 2007**

Section 3. DEFINITIONS.--As used in the Body Art Safe Practices Act:

- A. "board" means the board of barbers and cosmetologists;
- B. "body art" means tattooing, body piercing or scarification but does not include practices that are considered medical procedures by the New Mexico medical board;
- C. "body art establishment" means a fixed or mobile place where body art is administered on the premises;
- D. "body artist" means a person who administers body piercing, tattooing or scarification;

E. "body piercing" means to cut, stab or penetrate the skin to create a permanent hole or opening;

F. "equipment" means machinery used in connection with the operation of a body art establishment, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and other apparatuses and appurtenances;

G. "instruments used for body art" means hand pieces, needles, needle bars and other items that may come into contact with a person's body during the administration of body art;

H. "operator" means the owner in charge of a body art establishment;

I. "scarification" means cutting into the skin with a sharp instrument or branding the skin with a heated instrument to produce a permanent mark or design on the skin;

J. "sharps" means any sterilized object that is used for the purpose of penetrating the skin or mucosa, including needles, scalpel blades and razor blades;

K. "single use" means products or items that are intended for one-time, one-person use and are disposed of after use on each client, including cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves;

L. "sterilization" means destruction of all forms of microbotic life, including spores; and

M. "tattooing" means the practice of depositing pigment, which is either permanent, semipermanent or temporary, into the epidermis using needles by someone other than a state-licensed physician or a person under the supervision of a state-licensed physician and includes permanent cosmetics, dermography, micropigmentation, permanent color technology and micropigment implantation.

## **Chapter 181 Section 4 Laws 2007**

Section 4. ISSUANCE OF A BODY ART LICENSE.--The board has authority to issue a body art license to a body artist who has demonstrated the ability to perform body art and who conforms with the board's rules with respect to safety, sterilization and sanitation and a body art operator license to an operator who conforms with the board's rules.

## **Chapter 181 Section 5 Laws 2007**

Section 5. LICENSE--APPLICATION--REVOCATION--SUSPENSION.--

A. A body artist shall obtain a body art license, requirements for which shall be defined by the board that demonstrate that the body artist has the training and experience necessary to perform body piercing, tattooing or scarification and to establish and maintain a sanitary and sterile body art establishment.

B. An operator or body artist shall possess and post in a conspicuous place a valid and unsuspended license issued by the board in accordance with the Body Art Safe Practices Act and the rules promulgated pursuant to that act. An operator or a body artist shall not display a license unless it has been issued to the operator or body artist by the board and has not been suspended or revoked.

C. An operator or body artist shall apply to the board for the issuance of a license annually and pay license fees established by the board. The operator or body artist shall renew the license annually. The board shall set license fees and license renewal fees in amounts necessary to administer the provisions of the Body Art Safe Practices Act.

D. The board shall promulgate rules for the revocation or suspension of a license for an operator or body artist who fails to comply with a provision of the Body Art Safe Practices Act. A license shall not be suspended or revoked pursuant to the Body Art Safe Practices Act without providing the operator or the body artist an opportunity for an administrative hearing unless conditions in the body art establishment warrant immediate suspension pursuant to Section 9 of the Body Art Safe Practices Act. The hearing officer shall not be a person previously involved in the suspension or revocation action. An inspection made more than twenty-four months prior to the most recent inspection shall not be used as a basis for suspension or revocation.

E. The board shall charge a fee not to exceed three hundred dollars (\$300) for the application or annual renewal of a license. The operator or body artist shall provide proof of current immunization as required by the board, attendance at a blood-borne pathogen training program and other training as required and approved by the board before a license is issued or renewed.

F. A current body art or body art operator license shall not be transferable from one person to another.

G. Operators and body artists engaged in the body art business before the effective date of the Body Art Safe Practices Act shall have one hundred eighty days from the issuance of rules promulgated by the board to comply with license requirements.

H. The following information shall be kept on file on the premises of a body art establishment and available for inspection by the board:

(1) the full names of all employees in the establishment and their exact duties;

- (2) the board-issued license with identification photograph;
- (3) the body art establishment name and hours of operation;
- (4) the name and address of the body art establishment owner;
- (5) a complete description of all body art performed;

(6) a list of all instruments, body jewelry, sharps and inks used, including names of manufacturers and serial or lot numbers or invoices or other documentation sufficient to identify and locate the manufacturer; and

- (7) a copy of the Body Art Safe Practices Act.

I. An operator shall notify the board in writing not less than thirty days before changing the location of a body art establishment. The notice shall include the street address of the new location.

## **Chapter 181 Section 6 Laws 2007**

### Section 6. INSPECTION BY BOARD.--

A. The board shall annually inspect body art establishments to determine compliance with the Body Art Safe Practices Act. An operator or body artist shall allow a board official, upon proper identification, to enter the premises, inspect all parts of the premises and inspect and copy records of the body art establishment. The operator or body artist shall be given an opportunity to accompany the board official on the inspection and to receive a report of the inspection within fourteen days after the inspection.

B. Refusal to allow an inspection is grounds for suspension or revocation of the license of the operator or body artist, provided that the board official tendered proper identification prior to the refusal.

## **Chapter 181 Section 7 Laws 2007**

### Section 7. EXEMPTIONS.--

A. A person who pierces only the outer perimeter of the ear, not including any cartilage, using a pre-sterilized encapsulated single use stud ear piercing system, implementing appropriate procedures, is exempt from the requirements of the Body Art Safe Practices Act.

B. A member of a federally recognized tribe, band, nation or pueblo who performs scarification rituals for religious purposes is exempt from the requirements of the Body Art Safe Practices Act.

## **Chapter 181 Section 8 Laws 2007**

Section 8. STERILE PROCEDURES AND SANITATION.--The board shall establish by rule requirements for:

- A. the use and disposal of equipment and instruments; provided that:
  - (1) all sharps shall be sterilized prior to use;
  - (2) single use items shall not be used on more than one client for any reason; and
  - (3) all body art stencils shall be single use and disposable;
- B. the sterilization or sanitation of non-disposable items;
- C. the prohibition of off-site sterilization; and
- D. procedures to control disease borne by contact with customer or body artist skin mucosa.

## **Chapter 181 Section 9 Laws 2007**

Section 9. IMMEDIATE SUSPENSION.--The board may suspend a license immediately without prior notice to the holder of the license if it determines, after inspection, that conditions within a body art establishment present a substantial danger of illness, serious physical harm or death to customers who might patronize a body art establishment. A suspension action taken pursuant to this section is effective when communicated to the operator or body artist. Suspension action taken pursuant to this section shall not continue beyond the time that the conditions causing the suspension cease to exist, as determined by a board inspection at the request of the operator or body artist. A license holder may request an administrative hearing, as provided by Section 5 of the Body Art Safe Practices Act, if the board does not lift an immediate suspension within ten days.

## **Chapter 181 Section 10 Laws 2007**

Section 10. JUDICIAL REVIEW.--An applicant denied a license or an operator or body artist whose license is suspended or revoked by the board may appeal pursuant to Section 39-3-1.1 NMSA 1978.

## **Chapter 181 Section 11 Laws 2007**

Section 11. ENFORCEMENT.--

A. The board may seek relief in district court to enjoin the operation of a body art establishment or the practice of a body artist not in compliance with the Body Art Safe Practices Act.

B. The district court may impose a civil penalty not exceeding five hundred dollars (\$500) for a violation of the Body Art Safe Practices Act. Each violation of the provisions of the Body Art Safe Practices Act constitutes a separate offense.

C. The board may promulgate rules imposing a schedule of penalties for violations of the Body Art Safe Practices Act, provided that no penalty exceeds one hundred fifty dollars (\$150).

### **Chapter 181 Section 12 Laws 2007**

Section 12. USE OF BARBERS AND COSMETOLOGISTS FUND.--All license fees and penalties imposed by the board pursuant to the Body Art Safe Practices Act shall be deposited in the barbers and cosmetologists fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

### **Chapter 181 Section 13 Laws 2007**

Section 13. MUNICIPALITIES.--The Body Art Safe Practices Act provides minimum standards for safe body art practices. A municipality may by ordinance provide more stringent standards.

### **Chapter 181 Section 14 Laws 2007**

Section 14. RULES.--The board shall, in conjunction with the department of health, promulgate rules necessary to implement the provisions of the Body Art Safe Practices Act by December 31, 2007.

### **Chapter 181 Section 15 Laws 2007**

Section 15. Section 61-17A-6 NMSA 1978 (being Laws 1993, Chapter 171, Section 6, as amended) is amended to read:

"61-17A-6. BOARD CREATED--MEMBERSHIP.--

A. The "board of barbers and cosmetologists" is created. The board shall be administratively attached to the regulation and licensing department. The board shall consist of nine members appointed by the governor. Members shall serve three-year terms; provided that at the time of initial appointment, the governor shall appoint members to abbreviated terms to allow staggering of subsequent appointments. Vacancies shall be filled in the manner of the original appointment.

B. Of the nine members of the board, five shall be licensed pursuant to the Barbers and Cosmetologists Act and shall have at least five years' practical experience in their respective occupations. Of those five, two members shall be licensed barbers, two members shall be licensed cosmetologists and one member shall represent school owners. Two members shall be licensed body artists pursuant to the Body Art Safe Practices Act and shall have at least five years in practice in their occupation. The remaining two members shall be public members. Neither the public members nor their spouses shall have ever been licensed pursuant to the provisions of the Barbers and Cosmetologists Act, the Body Art Safe Practices Act or similar prior legislation or have a financial interest in a school or establishment.

C. Members of the board shall be reimbursed pursuant to the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

D. The board shall elect from among its members a chair and such other officers as it deems necessary. The board shall meet at the call of the chair, not less than four times each year. A majority of members currently serving shall constitute a quorum for the conduct of business.

E. No board member shall serve more than two full consecutive terms and any member who fails to attend, after proper notice, three meetings shall automatically be recommended for removal unless excused for reasons set forth by board regulation."

## **Chapter 181 Section 16 Laws 2007**

Section 16. Section 61-17A-7 NMSA 1978 (being Laws 1993, Chapter 171, Section 7, as amended) is amended to read:

"61-17A-7. BOARD POWERS AND DUTIES.--

A. The board shall:

(1) adopt and file, in accordance with the State Rules Act, rules necessary to carry out the provisions of the Barbers and Cosmetologists Act and the Body Art Safe Practices Act;

(2) establish fees;

(3) provide for the examination, licensure and license renewal of applicants for licensure;

(4) establish standards for and provide for the examination, licensure and license renewal of manicurists-pedicurists, estheticians, electrologists and body artists and operators pursuant to the Body Art Safe Practices Act;

(5) adopt a seal;

(6) furnish copies of rules and sanitary requirements adopted by the board to each owner or manager of an establishment, enterprise or school;

(7) keep a record of its proceedings and a register of applicants for licensure;

(8) provide for the licensure of barbers, cosmetologists, manicurists-pedicurists, estheticians, body artists and operators pursuant to the Body Art Safe Practices Act, electrologists, instructors, schools, enterprises and establishments;

(9) establish administrative penalties and fines;

(10) create and establish standards and fees for special licenses;

(11) establish guidelines for schools to calculate tuition refunds for withdrawing student; and

(12) hire an administrator and other such staff as necessary to carry out the provisions of the Body Art Safe Practices Act.

B. The board may establish continuing education requirements as requirements for licensure.

C. A member of the board, its employees or agents may enter and inspect a school, enterprise or establishment at any time during regular business hours for the purpose of determining compliance with the Barbers and Cosmetologists Act and the Body Art Safe Practices Act."

## **Chapter 181 Section 17 Laws 2007**

Section 17. Section 61-17A-20 NMSA 1978 (being Laws 1993, Chapter 171, Section 20, as amended) is amended to read:

"61-17A-20. DURATION, RESTORATION AND RENEWAL OF LICENSES.--

A. The original issuance and renewal of licenses to practice as a barber, cosmetologist, instructor, esthetician, manicurist-pedicurist or electrologist shall be for a period of one year or less from the date of issuance. If the licensee fails to renew the license for the next year, the license is void; provided the license may be restored at any time during the year following expiration upon the payment of the appropriate fee and a late charge not to exceed one hundred dollars (\$100) as set forth by board rules. If the licensee fails to restore the license within one year following its expiration, the licensee may request restoration of the license pursuant to rules promulgated by the board.

B. The original issuance and annual renewal of licenses to operate an establishment or school shall be for a period of twelve months or less following the issuance of the license. If the licensee fails to renew the license within thirty days after its expiration, the license is void, and, to again obtain a license, an application, required documentation, payment of the renewal fee and a late fee not to exceed one hundred dollars (\$100) as established by board rules is required.

C. The board may establish a staggered system of license expiration."

## **Chapter 181 Section 18 Laws 2007**

Section 18. APPROPRIATION.--Three hundred thousand dollars (\$300,000) is appropriated from the barbers and cosmetology fund to the board of barbers and cosmetologists for expenditure in fiscal year 2008 for administration of the Body Art Safe Practices Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

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House Bill 972, as amended

with certificate of correction

Approved April 2, 2007

## **LAWS 2007, CHAPTER 182**

AN ACT

RELATING TO TOBACCO; CHANGING AND ADDING DEFINITIONS IN THE CIGARETTE TAX ACT; EXPANDING CIGARETTE PACKAGING AMOUNTS; PROVIDING FOR EXCISE TAX RATES BASED ON PACKAGING; AMENDING THE CIGARETTE TAX ACT.

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

## **Chapter 182 Section 1 Laws 2007**

Section 1. Section 7-12-2 NMSA 1978 (being Laws 1971, Chapter 77, Section 2, as amended) is amended to read:

"7-12-2. DEFINITIONS.--As used in the Cigarette Tax Act:

A. "cigarette" means:

(1) any roll of tobacco or any substitute for tobacco wrapped in paper or in any substance not containing tobacco; or

(2) any roll of tobacco that is wrapped in any substance containing tobacco, other than one hundred percent natural leaf tobacco, which because of its appearance, the type of tobacco used in the filler, its packaging and labeling, or its marketing and advertising, is likely to be offered to, or purchased by, consumers as a cigarette, as described in Paragraph (1) of this subsection, and "cigarette" includes bidis and kreteks;

B. "contraband cigarettes" means cigarette packages with counterfeit stamps, counterfeit cigarettes, cigarettes that have false or fraudulent manufacturing labels, cigarettes not sold in packages of five, ten, twenty or twenty-five and cigarette packages without the tax or tax-exempt stamps required by the Cigarette Tax Act;

C. "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;

D. "distributor" means a person licensed pursuant to the Cigarette Tax Act to sell or distribute cigarettes in New Mexico. "Distributor" does not include:

(1) a retailer;

(2) a cigarette manufacturer, export warehouse proprietor or importer with a valid permit pursuant to 26 U.S.C. 5713, if that person sells cigarettes in New Mexico only to distributors that hold valid licenses under the laws of a state or sells to an export warehouse proprietor or to another manufacturer; or

(3) a common or contract carrier transporting cigarettes pursuant to a bill of lading or freight bill, or a person who ships cigarettes through the state by a common or contract carrier pursuant to a bill of lading or freight bill;

E. "license" means a license granted pursuant to the Cigarette Tax Act that authorizes the holder to conduct business as a manufacturer or distributor of cigarettes;

F. "manufacturer" means a person that manufactures, fabricates, assembles, processes or labels a cigarette or that imports from outside the United States, directly or indirectly, a finished cigarette for sale or distribution in the United States;

G. "master settlement agreement" means the settlement agreement and related documents entered into on November 23, 1998 by the state and leading United States tobacco product manufacturers;

H. "package" means an individual pack, box or other container; "package" does not include a container that itself contains other containers, such as a carton of cigarettes;

I. "retailer" means a person, whether located within or outside of New Mexico, that sells cigarettes at retail to a consumer in New Mexico and the sale is not for resale;

J. "stamp" means an adhesive label issued and authorized by the department to be affixed to cigarette packages for excise tax purposes and upon which is printed a serial number and the words "State of New Mexico" and "tobacco tax";

K. "tax stamp" means a stamp that has a specific cigarette tax value pursuant to the Cigarette Tax Act; and

L. "tax-exempt stamp" means a stamp that indicates a tax-exempt status pursuant to the Cigarette Tax Act."

## **Chapter 182 Section 2 Laws 2007**

Section 2. Section 7-12-3 NMSA 1978 (being Laws 1971, Chapter 77, Section 3, as amended) is amended to read:

### **"7-12-3. EXCISE TAX ON CIGARETTES--RATES.--**

A. For the privilege of selling, giving or consuming cigarettes in New Mexico, there is levied an excise tax at the following rates for each cigarette sold, given or consumed in this state:

(1) four and fifty-five hundredths cents (\$.0455) if the cigarettes are packaged in lots of twenty or twenty-five;

(2) nine and ten-hundredths cents (\$.091) if the cigarettes are packaged in lots of ten; or

(3) eighteen and twenty-hundredths cents (\$.182) if the cigarettes are packaged in lots of five.

B. The tax imposed by this section shall be referred to as the "cigarette tax"."

## **Chapter 182 Section 3 Laws 2007**

Section 3. Section 7-12-5 NMSA 1978 (being Laws 1971, Chapter 77, Section 5, as amended) is amended to read:

### **"7-12-5. AFFIXING STAMPS.--**

A. Except as provided in Section 7-12-6 NMSA 1978, all cigarettes shall be placed in packages or containers to which a stamp shall be affixed. Only a distributor with a valid license issued pursuant to the Cigarette Tax Act may purchase or obtain unaffixed tax-

exempt stamps or tax stamps. A distributor shall not sell or provide unaffixed stamps to another distributor, manufacturer, export warehouse proprietor or importer with a valid permit pursuant to 26 U.S.C. 5713 or any other person.

B. Stamps shall be affixed by the distributor to each package of cigarettes to be sold or distributed in New Mexico within ten days of receipt of those packages.

C. A distributor shall apply stamps only to packages of cigarettes that it has received directly from a manufacturer or importer of cigarettes that possesses a valid and current permit pursuant to 26 U.S.C. 5713.

D. Packages shall contain cigarettes in lots of five, ten, twenty or twenty-five.

E. Unless the requirements of this section are waived pursuant to Section 7-12-6 NMSA 1978, a tax stamp shall be affixed to each package of cigarettes subject to the cigarette tax and a tax-exempt stamp shall be affixed to each package of cigarettes not subject to the cigarette tax pursuant to Section 7-12-4 NMSA 1978.

F. A tax-exempt stamp is not an excise tax stamp for purposes of determining units sold pursuant to Section 6-4-12 NMSA 1978.

G. Stamps shall be affixed inside the boundaries of New Mexico, unless the department has granted a license allowing a person to affix stamps outside New Mexico." \_\_\_\_\_

House Taxation and Revenue Committee

Substitute for House Bill 984

Approved April 2, 2007

## **LAWS 2007, CHAPTER 183**

AN ACT

RELATING TO THE ENVIRONMENT; ADDING THE SECRETARY OF HEALTH AS A MEMBER OF THE WATER QUALITY CONTROL COMMISSION.

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

**Chapter 183 Section 1 Laws 2007**

Section 1. Section 74-6-3 NMSA 1978 (being Laws 1967, Chapter 190, Section 3, as amended) is amended to read:

"74-6-3. WATER QUALITY CONTROL COMMISSION CREATED.--

A. There is created the "water quality control commission" consisting of:

(1) the secretary of environment or a member of the secretary's staff designated by the secretary;

(2) the secretary of health or a member of the secretary's staff designated by the secretary;

(3) the director of the department of game and fish or a member of the director's staff designated by the director;

(4) the state engineer or a member of the state engineer's staff designated by the state engineer;

(5) the chair of the oil conservation commission or a member of the chair's staff designated by the chair;

(6) the director of the state parks division of the energy, minerals and natural resources department or a member of the director's staff designated by the director;

(7) the director of the New Mexico department of agriculture or a member of the director's staff designated by the director;

(8) the chair of the soil and water conservation commission or a soil and water conservation district supervisor designated by the chair;

(9) the director of the bureau of geology and mineral resources at the New Mexico institute of mining and technology or a member of the director's staff designated by the director;

(10) a municipal or county government representative; and

(11) four representatives of the public to be appointed by the governor for terms of four years and who shall be compensated from the budgeted funds of the department of environment in accordance with the provisions of the Per Diem and Mileage Act. At least one member appointed by the governor shall be a member of a New Mexico Indian tribe or pueblo.

B. A member of the commission shall not receive, or shall not have received during the previous two years, a significant portion of the member's income directly or

indirectly from permit holders or applicants for a permit. A member of the commission shall, upon the acceptance of the member's appointment and prior to the performance of any of the member's duties, file a statement of disclosure with the secretary of state disclosing any amount of money or other valuable consideration, and its source, the value of which is in excess of ten percent of the member's gross personal income in each of the preceding two years, that the member received directly or indirectly from permit holders or applicants for permits required under the Water Quality Act. A member of the commission shall not participate in the consideration of an appeal if the subject of the appeal is an application filed or a permit held by an entity that either employs the commission member or from which the commission member received more than ten percent of the member's gross personal income in either of the preceding two years.

C. The commission shall elect a chair and other necessary officers and shall keep a record of its proceedings.

D. A majority of the commission constitutes a quorum for the transaction of business, but no action of the commission is valid unless concurred in by six or more members present at a meeting.

E. The commission is the state water pollution control agency for this state for all purposes of the federal act and the wellhead protection and sole source aquifer programs of the federal Safe Drinking Water Act and may take all action necessary and appropriate to secure to this state, its political subdivisions or interstate agencies the benefits of that act and those programs.

F. The commission is administratively attached, as defined in the Executive Reorganization Act, to the department of environment."

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House Bill 998, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 184**

### **AN ACT**

RELATING TO STATE GOVERNMENT; REQUIRING THE APPROVAL OF THE LEGISLATURE FOR STATE AGENCIES TO ENTER INTO CERTAIN LEASE-PURCHASE AGREEMENTS; REQUIRING, IN CERTAIN CASES, TITLES TO BE ISSUED IN THE NAME OF THE PROPERTY CONTROL DIVISION OF THE GENERAL SERVICES DEPARTMENT.

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

## **Chapter 184 Section 1 Laws 2007**

### Section 1. LEASE-PURCHASE AGREEMENTS--APPROVAL OF LEGISLATURE.--

A. A financing agreement under which a state agency is to occupy a building or other real property and that contains an option to purchase for a price that is reduced according to the lease payments made is subject to the following criteria:

(1) the agreement shall not become effective until it has been ratified and approved by the legislature; and

(2) if the state agency is subject to the jurisdiction of the property control division of the general services department pursuant to the Property Control Act, the agreement shall provide that, if the real property is purchased, title to the real property shall be issued in the name of the property control division.

B. Legislative ratification and approval of an agreement pursuant to Subsection A of this section shall not create a legal obligation for the state agency to continue the lease from year to year or to purchase the real property.

C. As used in this section, "state agency" means the state or any of its branches, agencies, departments, boards, instrumentalities or institutions, but "state agency" does not include state educational institutions or state-chartered charter schools.

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House Bill 1022

Approved April 2, 2007

## **LAWS 2007, CHAPTER 185**

AN ACT

RELATING TO THE CHILDREN'S CODE; PERMITTING LAW ENFORCEMENT AGENCIES TO HELP PARENTS LOCATE MISSING CHILDREN; AMENDING THE TIME PERIOD FOR RUNAWAYS TO RECEIVE FAMILY SERVICES.

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

## **Chapter 185 Section 1 Laws 2007**

Section 1. Section 32A-3B-2 NMSA 1978 (being Laws 1993, Chapter 77, Section 74) is amended to read:

"32A-3B-2. DEFINITIONS.--As used in Chapter 32A, Article 3B NMSA 1978, "family in need of court-ordered services" means the child or the family has refused family services or the department has exhausted appropriate and available family services and court intervention is necessary to provide family services to the child or family and the following circumstances exist:

A. it is a family whose child, subject to compulsory school attendance, is absent from school without an authorized excuse more than ten days during a school semester;

B. it is a family whose child is absent from the child's place of residence for a time period of twelve hours or more without consent of the child's parent, guardian or custodian;

C. it is a family whose child refuses to return home and there is good cause to believe that the child will run away from home if forced to return to the parent, guardian or custodian; or

D. it is a family in which the child's parent, guardian or custodian refuses to allow the child to return home and a petition alleging neglect of the child is not in the child's best interests."

## **Chapter 185 Section 2 Laws 2007**

Section 2. A new section of the Children's Code is enacted to read:

"RUNAWAY CHILD--LAW ENFORCEMENT--PERMITTED ACTS.--Whenever a law enforcement agency receives a report from a parent, guardian or custodian that a child over whom the parent, guardian or custodian has custody has, without permission, left the home or residence lawfully prescribed for the child and the parent, guardian or custodian believes the child has run away, a law enforcement agent may help the parent, guardian or custodian locate the child and:

A. return the child to the parent, guardian or custodian unless safety concerns are present;

B. hold the child for up to six hours if the parent, guardian or custodian cannot be located; or

C. after the six hours has expired, follow the procedures outlined in Section 32A-3B-3 NMSA 1978."

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House Bill 1024, as amended

Approved April 2, 2007

# LAWS 2007, CHAPTER 186

## AN ACT

RELATING TO RURAL ELECTRIC COOPERATIVES; AMENDING PROTEST PROCEDURES FOR RATE CHANGES.

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

### **Chapter 186 Section 1 Laws 2007**

Section 1. Section 62-8-7 NMSA 1978 (being Laws 1991, Chapter 251, Section 1, as amended) is amended to read:

"62-8-7. CHANGE IN RATES.--

A. At any hearing involving an increase in rates or charges sought by a public utility, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility.

B. Unless the commission otherwise orders, no public utility shall make any change in any rate that has been duly established except after thirty days' notice to the commission, which notice shall plainly state the changes proposed to be made in the rates then in force and the time when the changed rates will go into effect and other information as the commission by rule requires. The utility shall also give notice of the proposed changes to other interested persons as the commission may direct. All proposed changes shall be shown by filing new schedules that shall be kept open to public inspection. The commission for good cause shown may allow changes in rates without requiring the thirty days' notice, under conditions that it may prescribe.

C. Whenever there is filed with the commission by any public utility a complete application as prescribed by commission rule proposing new rates, the commission may, upon complaint or upon its own initiative, except as otherwise provided by law, upon reasonable notice, enter upon a hearing concerning the reasonableness of the proposed rates. If the commission determines a hearing is necessary, it shall suspend the operation of the proposed rates before they become effective but not for a longer initial period than nine months beyond the time when the rates would otherwise go into effect, unless the commission finds that a longer time will be required, in which case the commission may extend the period for an additional three months. The commission shall hear and decide cases with reasonable promptness. The commission shall adopt rules identifying criteria for various rate and tariff filings to be eligible for suspension periods shorter than what is allowed by this subsection and to be eligible for summary approval without hearing.

D. If after a hearing the commission finds the proposed rates to be unjust, unreasonable or in any way in violation of law, the commission shall determine the just

and reasonable rates to be charged or applied by the utility for the service in question and shall fix the rates by order to be served upon the utility or the commission by its order shall direct the utility to file new rates respecting such service that are designed to produce annual revenues no greater than those determined by the commission in its order to be just and reasonable. Those rates shall thereafter be observed until changed, as provided by the Public Utility Act.

E. Except as otherwise provided by law, any increase in rates or charges for the utility commodity based upon cost factors other than taxes or cost of fuel, gas or purchased power, filed for after April 4, 1991, shall be permitted only after notice and hearing as provided by this section. The commission shall enact rules governing the use of tax, fuel, gas or purchased power adjustment clauses by utilities that enable the commission to consider periodically at least the following:

(1) whether the existence of a particular adjustment clause is consistent with the purposes of the Public Utility Act, including serving the goal of providing reasonable and proper service at fair, just and reasonable rates to all customer classes;

(2) the specific adjustment mechanism to recover tax, gas, fuel or purchased power costs;

(3) which costs should be included in an adjustment clause, procedures to avoid the inclusion of costs in an adjustment clause that should not be included and methods by which the propriety of costs that are included may be determined by the commission in a timely manner, including what informational filings are required to enable the commission to make such a determination; and

(4) the proper adjustment period to be employed.

F. The commission may eliminate or condition a particular adjustment clause if it finds such elimination or condition is consistent with the purposes of the Public Utility Act, including serving the goal of providing reasonable and proper service at fair, just and reasonable rates to all customer classes; provided, however, that no such elimination or condition shall be ordered unless such elimination or condition will not place the affected utility at a competitive disadvantage. The commission rules shall also provide for variances and may provide for separate examination of a utility's adjustment clause based upon that utility's particular operating characteristics.

G. Whenever there is filed with the commission a schedule proposing new rates by a rural electric cooperative organized under the Rural Electric Cooperative Act, the rates shall become effective as proposed by the rural electric cooperative without a hearing. However, the cooperative shall give written notice of the proposed rates to its affected patrons at least thirty days prior to the filing with the commission, and the commission shall suspend the rates and conduct a hearing concerning the reasonableness of any proposed rates filed by a rural electric cooperative pursuant to Subsections C and D of this section upon the filing with the commission of a protest

setting forth grounds for review of the proposed rates signed by the lesser of one percent of or twenty-five members of a customer class of the rural electric cooperative and if the commission determines there is just cause for reviewing the proposed rates on one or more of the grounds of the protest. The protest shall be filed no later than twenty days after the filing with the commission of the schedule proposing the new rates. The hearing and review shall be limited to the issues set forth in the protest and for which the commission may find just cause for the review, which issues shall be contained in the notice of hearing. The provisions of this subsection shall not be construed to affect commission authority or procedure to regulate the sale, furnishing or delivery by wholesale suppliers of electricity to rural electric cooperatives pursuant to Section 62-6-4 NMSA 1978. In addition to the adjustments permitted by Subsections E and F of this section, the commission may authorize rate schedules of rural electric cooperatives to recover, without notice and hearing, changes in the cost of debt capital incurred pursuant to securities that are lawfully issued. For the purposes of this subsection, a member of a rural electric cooperative is a member as defined by the Rural Electric Cooperative Act."

## **Chapter 186 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 1030

Approved April 2, 2007

## **LAWS 2007, CHAPTER 187**

AN ACT

RELATING TO MOTOR VEHICLES; ALLOWING DIFFERENT ANNUAL EXPIRATION DATES FOR LICENSES ISSUED TO DRIVER EDUCATION SCHOOLS.

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

## **Chapter 187 Section 1 Laws 2007**

Section 1. Section 66-10-5 NMSA 1978 (being Laws 1967, Chapter 185, Section 5, as amended) is amended to read:

"66-10-5. ISSUANCE OF LICENSES TO DRIVER EDUCATION SCHOOLS AND TO DRIVER EDUCATION INSTRUCTORS.--

A. The bureau shall issue a license certificate to each applicant to conduct a driver education school or to each driver education instructor when it is satisfied that the person has met the qualifications required under the Driving School Licensing Act and if a school complies with the minimum driver education program standards established by the bureau.

B. The bureau shall prescribe minimum driver training program standards.

C. All licenses issued pursuant to the provisions of the Driving School Licensing Act shall expire annually, unless canceled, suspended or revoked sooner. The bureau shall establish annual expiration dates for the licenses by rule, and each category of driving school may have a different license expiration date. Licenses shall be renewed subject to application and payment of the required fee."

## **Chapter 187 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 1052

Approved April 2, 2007

## **LAWS 2007, CHAPTER 188**

AN ACT

RELATING TO MOTOR TRANSPORTATION; AMENDING THE DEFINITION OF "INCIDENTAL CARRIER" TO INCLUDE A VEHICLE THAT HOLDS SIXTEEN PASSENGERS.

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

## **Chapter 188 Section 1 Laws 2007**

Section 1. Section 65-2A-3 NMSA 1978 (being Laws 2003, Chapter 359, Section 3, as amended) is amended to read:

"65-2A-3. DEFINITIONS.--As used in the Motor Carrier Act:

A. "amendment" means a permanent change in the type of service or territory authorized by an existing certificate or permit;

B. "antitrust laws" means the laws of this state relating to combinations in restraint of trade;

C. "base state" means the registration state for an interstate motor carrier that either is subject to regulation or is transporting commodities exempt from regulation by the federal motor carrier safety administration pursuant to the single state registration system;

D. "cancellation" means the voluntary, permanent termination of all or part of an operating authority;

E. "certificate" means the operating authority issued by the commission to intrastate common motor carriers of persons or household goods;

F. "change in a certificate or permit" means the amendment, cancellation, change in tariff, change in form of ownership, lease, reinstatement, transfer or voluntary suspension of a certificate or permit;

G. "change of name" means a change in the legal name of the owner of an operating authority or in the does-business-as name of the motor carrier, but does not include a change in the form of ownership;

H. "commission" means the public regulation commission;

I. "common control" means control of more than one operating authority of the same kind for the same or overlapping territory;

J. "common motor carrier" means a person offering compensated transportation by motor vehicle to the general public, whether over regular or irregular routes, or under scheduled or unscheduled service, but does not include commuter services;

K. "common tariff" means a tariff applying to two or more common motor carriers;

L. "commuter service" means a person who provides seven- to fifteen-passenger motor vehicles to a volunteer-driver commuter group that shares rides to and from the workplace or training site, where participation is open to the public and incidental to the primary work or training-related purposes of the commuter group, and where the volunteer drivers have no employer-employee relationship with the commuter service;

M. "contract motor carrier" means a person offering compensated transportation by motor vehicle under individual agreements with particular customers or shippers;

N. "control" means the power to direct or cause the direction of the management and policies of a motor carrier deriving from:

(1) ownership of a sole proprietorship, if the operating authority is held by an individual as a sole proprietor;

(2) ownership of ten percent or more of the voting stock of the corporation, if the operating authority is held by a corporation;

(3) a partnership interest in a general partnership, if the operating authority is held by a general partnership;

(4) an interest in a limited partnership of ten percent or more of the total value of contributions made to the limited partnership, or entitlement to ten percent or more of the profits earned or other compensation paid by the limited partnership, if the operating authority is held by a limited partnership;

(5) a membership interest of ten percent or more in a limited liability company, if the operating authority is held by a limited liability company; or

(6) capacity as a trustee, personal representative or other person with a fiduciary duty to a motor carrier;

O. "electronic filing" means submission of a document by facsimile, electronic mail or other electronic transmission;

P. "financial responsibility" means the ability to respond in damages for liability arising out of the ownership, maintenance or use of a motor vehicle in the provision of transportation services;

Q. "highway" means a way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purpose of construction, maintenance, repair or reconstruction;

R. "household goods" means personal effects and property used or to be used in a dwelling when a part of the equipment or supply of the dwelling and other similar property as the federal motor carrier safety administration may provide by regulation, but shall not include property moving from a factory or store, other than property the householder has purchased to use in the householder's dwelling that is transported at the request of, and the transportation charges are paid to the carrier by, the householder;

S. "incidental carrier" means a motor carrier of persons that transports passengers using vehicles designed to transport sixteen or more passengers, including the driver, and for which the customer pays either directly or indirectly;

T. "interested person" means a motor carrier operating over the routes or in the territory involved in an application or grant of temporary authority, a person affected by

a rule proposed for adoption by the commission or a person the commission may deem interested in a particular matter;

U. "interstate motor carrier" means a person providing compensated transportation in interstate commerce, whether or not the person is subject to regulation by the federal motor carrier safety administration;

V. "intrastate motor carrier" means a person providing compensated transportation by motor vehicle between points and places in the state;

W. "involuntary suspension" means the temporary cessation of use of all or part of an operating authority ordered by the commission for cause for a stated period of time or pending compliance with certain conditions;

X. "irregular route" means that the route to be used by a motor carrier is not restricted to a specific highway within the territory the motor carrier is authorized to serve;

Y. "lease of a certificate or permit" means an agreement by which the owner of a certificate or permit grants to another the exclusive right to use all or part of the certificate or permit for a specified period of time in exchange for consideration;

Z. "lease of equipment" means an agreement whereby a motor carrier obtains equipment owned by another for use by the motor carrier in the exercise of its operating authority;

AA. "motor carrier" means a person offering compensated transportation of persons or property by motor vehicle, whether in intrastate or interstate commerce;

BB. "motor carrier organization" means an organization approved by the commission to discuss and propose a common tariff for a group of motor carriers or to represent motor carriers that have adopted the common tariff;

CC. "motor carrier of persons" means a person who provides compensated transportation of persons on a highway in the state;

DD. "motor vehicle" means a vehicle, machine, tractor, trailer or semitrailer propelled or drawn by mechanical power and used on a highway in the transportation of property or persons, but does not include a vehicle, locomotive or car operated exclusively on rails;

EE. "nonconsensual tow" means the compensated transportation of a motor vehicle by a towing service, if such transportation is performed at the request of a law enforcement officer or without the prior consent or authorization of the owner or operator of the motor vehicle;

FF. "operating authority" means a certificate, permit, warrant, single trip ticket, single state registration receipt or temporary authority issued by the commission to a motor carrier;

GG. "permit" means the operating authority issued by the commission to intrastate contract motor carriers of persons or household goods;

HH. "process" means an order, subpoena or notice issued by the commission or an order, subpoena, notice, writ or summons issued by a court;

II. "property" means movable articles of value, including cadavers, hazardous matter, farm products, livestock feed, stock salt, manure, wire, posts, dairy products, livestock hauled in lots of twenty-five thousand pounds or more, farm or ranch machinery and the items transported by a towing service, but does not include household goods or unprocessed farm products transported by a farmer from the place of harvesting to market, storage or a processing plant;

JJ. "protest" means a document filed with the commission by an interested person that expresses an objection to a matter before the commission;

KK. "rate" means a form of compensation charged, whether directly or indirectly, by a person for a transportation service subject to the jurisdiction of the commission;

LL. "record" means an account, correspondence, memorandum, tape, disc, paper, book or transcribed information regarding the operation of a motor carrier;

MM. "registration year" means a calendar year;

NN. "regular route" means a route used by a motor carrier within the territory in which the motor carrier is authorized to serve that is fixed by its operating authority;

OO. "revocation" means the involuntary, permanent termination of all or part of an operating authority ordered by the commission for cause;

PP. "shipper" means a person who consigns or receives goods for transportation;

QQ. "single state registration receipt" means the document issued annually to a motor carrier operating in interstate commerce evidencing that proof of financial responsibility and safety has been filed with the base state and that the annual per vehicle fees have been paid for that registration year;

RR. "tariff" means a document filed by a motor carrier of persons or household goods or a towing service performing nonconsensual tows that has been approved by the commission and sets forth the transportation services offered by the motor carrier to the general public, including the rates, terms and conditions and applicable time schedules relating to those services, including a common tariff;

SS. "taxicab service" means a common motor carrier engaged in unscheduled passenger transportation in a motor vehicle having a capacity of not more than eight passengers, including the driver, not operated on a regular route or between specified places, and that:

(1) is licensed as a taxicab service by a state or local jurisdiction; or

(2) if not licensed or regulated by a state or local jurisdiction as a taxicab service, is offered by a person that:

(a) provides local transportation for a fare determined, except with respect to transportation to or from airport, train or bus terminals, primarily on the basis of the distance traveled; and

(b) does not primarily provide transportation to or from one or more airport, train or bus terminals;

TT. "terminal shuttle service" means a common motor carrier engaged in passenger transportation service that:

(1) is prearranged by contract or operated by hire on a regular route, allowing for deviation to pick up or drop off passengers, between specified or generally specified points; and

(2) primarily provides transportation to or from one or more airport, train or bus terminals but may also provide for intermediate pickup or departure of passengers;

UU. "towing services" means the use of specialized equipment, including repossession services using towing equipment, to transport:

(1) a damaged, disabled or abandoned motor vehicle and its cargo;

(2) a motor vehicle to replace a damaged, disabled or abandoned motor vehicle;

(3) parts and equipment to repair a damaged, disabled or abandoned motor vehicle;

(4) a motor vehicle whose driver has been declared unable to drive by a law enforcement officer;

(5) a motor vehicle whose driver has been removed from the scene or is unable to drive; or

(6) a motor vehicle repossessed or seized pursuant to lawful authority;

VV. "transfer of a certificate or permit" means a permanent conveyance of all or part of a certificate or permit;

WW. "transfer by operation of law" means that the ownership of or interest in a certificate or permit passes to another by application of established rules of law;

XX. "voluntary suspension" means the commission-authorized cessation of use of all or part of a certificate or permit at the request of the motor carrier for a specified period of time;

YY. "warrant" means the operating authority issued by the commission to charter services, towing services, commuter services and motor carriers of property; and

ZZ. "weight-bumping" means the knowing and willful statement of a fraudulent weight on a shipment of household goods."

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House Bill 1060

Approved April 2, 2007

## **LAWS 2007, CHAPTER 189**

### AN ACT

RELATING TO PUBLIC FINANCE; CLOSING A CENTRAL ACCOUNTING FUND AND REVERTING THE BALANCE TO THE GENERAL FUND.

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

### **Chapter 189 Section 1 Laws 2007**

Section 1. TEMPORARY PROVISION--ACCOUNT CLOSURE--TRANSFER OF BALANCE TO GENERAL FUND.--The unexpended or unencumbered balance in central accounting fund number 718, a payroll clearing account containing excess payroll collections made in 1989 by the financial control division of the department of finance and administration from state agencies that cannot be identified, shall revert to the general fund by October 1, 2007.

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House Bill 1101

Approved April 2, 2007

# **LAWS 2007, CHAPTER 190**

## **AN ACT**

RELATING TO PUBLIC FINANCES; REPEALING SECTION 6-4-8 NMSA 1978 (BEING LAWS 1993, CHAPTER 65, SECTION 20), WHICH CREATED THE DWI PROGRAM FUND; APPROPRIATING THE FUND BALANCE TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION.

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

### **Chapter 190 Section 1 Laws 2007**

#### Section 1. APPROPRIATION.--

A. The balance in the DWI program fund as of July 1, 2007 is appropriated to the department of finance and administration for expenditure in fiscal years 2008 and 2009 for the following purposes statewide:

(1) enforcement of laws related to driving while intoxicated, including:

(a) the purchase of equipment, including cameras for law enforcement vehicles, checkpoint equipment and undercover equipment; and

(b) undercover operations, including operations intended to identify establishments and persons who provide alcohol to intoxicated persons; and

(2) a study of DWI-drug courts, including:

(a) their cost-effectiveness;

(b) the effect on recidivism rates among participants; and

(c) ways in which such courts may be improved.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2009 shall revert to the general fund.

### **Chapter 190 Section 2 Laws 2007**

Section 2. REPEAL.--Section 6-4-8 NMSA 1978 (being Laws 1993, Chapter 65, Section 20) is repealed.

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House Bill 1103

Approved April 2, 2007

## **LAWS 2007, CHAPTER 191**

AN ACT

RELATING TO LICENSURE; PROVIDING A SPECIFIC TIME PERIOD FOR VALIDITY OF PROVISIONAL LICENSURE; AMENDING THE SOCIAL WORK PRACTICE ACT.

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

### **Chapter 191 Section 1 Laws 2007**

Section 1. Section 61-31-11 NMSA 1978 (being Laws 1989, Chapter 51, Section 11) is amended to read:

"61-31-11. PROVISIONAL LICENSURE.--Prior to examination, an applicant for licensure may obtain a provisional license to engage in social work practice as long as the applicant meets all the requirements, except examination, as prescribed in Section 61-31-10 NMSA 1978 for the level of license sought. The provisional license is valid for a period not to exceed one year."

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House Bill 1104

Approved April 2, 2007

## **LAWS 2007, CHAPTER 192**

AN ACT

RELATING TO PUBLIC BUILDINGS; MAKING APPROPRIATIONS FOR RENOVATIONS AT CAPITOL NORTH, LIMITED RENOVATIONS AT THE CAPITOL AND PLANNING FOR LONG-TERM SPACE NEEDS FOR ALL AGENCIES AT THE CAPITOL; DECLARING AN EMERGENCY.

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

### **Chapter 192 Section 1 Laws 2007**

Section 1. APPROPRIATIONS--CAPITOL RENOVATIONS.--The following appropriations are made from the following sources to the legislative council service for

expenditure in fiscal years 2007 through 2011 for the purpose of planning, designing, constructing and renovating capitol north and limited renovations at the capitol to provide for currently identified space needs of legislative staff and developing long-range space plans to address long-term space needs of all the agencies at the capitol. Any unexpended or unencumbered balance remaining at the end of fiscal year 2011 shall revert to the capitol buildings repair fund:

A. one million dollars (\$1,000,000) is appropriated from the fiscal year 2007 distributions to the capitol buildings repair fund;

B. two million five hundred thousand dollars (\$2,500,000) is appropriated from the fiscal year 2008 distributions to the capitol buildings repair fund; and

C. one million dollars (\$1,000,000) is appropriated from legislative cash balances.

## **Chapter 192 Section 2 Laws 2007**

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

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House Taxation and Revenue Committee

Substitute for House Bill 1137

with emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 193**

AN ACT

RELATING TO ELECTIONS; REQUIRING COUNTY CLERKS TO PROVIDE AN ALTERNATE EARLY VOTING LOCATION ON INDIAN NATION, TRIBAL OR PUEBLO LANDS WHEN REQUESTED BY THE INDIAN NATION, TRIBE OR PUEBLO.

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

## **Chapter 193 Section 1 Laws 2007**

Section 1. Section 1-6-5.6 NMSA 1978 (being Laws 2003, Chapter 357, Section 6, as amended) is amended to read:

"1-6-5.6. EARLY VOTING--ALTERNATE VOTING LOCATIONS--  
PROCEDURES.--The secretary of state shall adopt rules to:

A. ensure that voters have adequate access to alternate locations for early voting in each county, taking into consideration population density and travel time to the location of voting;

B. ensure that early voters are not allowed to vote in person on election day;

C. ensure that adequate interpreters are available at alternate early voting locations in those precincts having a majority of qualified electors who are part of a recognized language minority;

D. allow for mobile alternate voting locations in rural areas of the state; and

E. require county clerks to provide at least one alternate early voting location on Indian nation, tribal or pueblo land when requested by the Indian nation, tribe or pueblo if that Indian nation, tribe or pueblo is more than fifteen miles from an office of the county clerk."

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House Bill 1140, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 194**

AN ACT

RELATING TO MOBILE HOME PARKS; PROVIDING FOR HOUSING FOR OLDER  
PERSONS DESIGNATION.

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

### **Chapter 194 Section 1 Laws 2007**

Section 1. Section 47-10-11 NMSA 1978 (being Laws 1983, Chapter 122,  
Section 11, as amended) is amended to read:

"47-10-11. CLOSED PARKS PROHIBITED.--

A. The management shall not require, as a condition of tenancy in a mobile home park, that the prospective tenant purchase a mobile home from a particular seller or from any one of a particular group of sellers and shall not require that the management act as agent in the future sale of the mobile home.

B. The management shall not give any special preference in renting to a prospective tenant who has purchased a mobile home from a particular seller.

C. A seller of mobile homes shall not require as a condition of sale that a purchaser locate in a particular mobile home park or in any one of a particular group of mobile home parks.

D. The management shall not prohibit the listing or sale of a mobile home within the park by the owner of the mobile home or the owner's agent. The management shall not require as a condition of sale that the management serve as the selling agent.

E. The management shall treat all persons equally in evaluating credit or renting or leasing available space, except that a park may be designated for housing for older persons after a six months' notice to the residents, provided that the management complies with all applicable procedures of state and federal antidiscrimination laws, including the federal Fair Housing Act, 42 U.S.C. Sections 3601-3619."

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House Bill 1178

Approved April 2, 2007

## **LAWS 2007, CHAPTER 195**

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; EXPANDING THE TYPES OF COOPERATIVE WORK STUDY TRAINING PROGRAMS FOR WHICH SERVICE CREDIT MAY BE PURCHASED.

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

### **Chapter 195 Section 1 Laws 2007**

Section 1. Section 10-11-7 NMSA 1978 (being Laws 1987, Chapter 253, Section 7, as amended) is amended to read:

"10-11-7. CREDITED SERVICE--PURCHASE OF SERVICE.--

A. A member who entered a uniformed service of the United States may purchase service credit for periods of active duty in the uniformed services subject to the following conditions:

(1) the member pays the association the purchase cost determined according to Subsection E of this section;

(2) the member has five or more years of service credit acquired as a result of personal service rendered in the employ of an affiliated public employer;

(3) the aggregate amount of service credit purchased pursuant to this subsection does not exceed five years reduced by any period of service credit acquired for military service pursuant to any other provision of the Public Employees Retirement Act;

(4) service credit may not be purchased for periods of service in the uniformed services that are used to obtain or increase a benefit from another retirement program; and

(5) the member must not have received a discharge or separation from uniformed service under other than honorable conditions.

B. A member who was a civilian prisoner of war captured while in service to the United States as an employee of the federal government or as an employee of a contractor with the federal government may purchase service credit for the period of internment as a civilian prisoner of war, provided that:

(1) the member provides proof of employment with the federal government or as a contractor to the federal government in a form acceptable to the association;

(2) the member provides proof of the period of internment in a form acceptable to the association;

(3) the member has at least five years of service credit acquired as a result of personal service rendered in the employ of an affiliated public employer;

(4) the aggregate amount of service credit purchased pursuant to this subsection does not exceed five years reduced by any period of service credit acquired for military service pursuant to any other provision of the Public Employees Retirement Act;

(5) service credit may not be purchased for periods of service in internment as a civilian prisoner of war if such periods are used to obtain or increase a benefit from another retirement program; and

(6) the member pays the association the purchase cost determined according to Subsection E of this section.

C. A member who was employed by a utility company, library, museum, transit company or nonprofit organization administering federally funded public service programs, which utility company, library, museum, transit company or nonprofit organization administering federally funded public service programs or federally funded public service programs administered by a nonprofit organization are subsequently

taken over by an affiliated public employer, or a member who was employed by an entity created pursuant to a joint powers agreement between two or more affiliated public employers for the purpose of administering or providing drug or alcohol addiction treatment services irrespective of whether the entity is subsequently taken over by an affiliated public employer, may purchase credited service for the period of employment subject to the following conditions:

(1) the member pays the association the purchase cost determined according to Subsection E of this section;

(2) the member has five or more years of credited service acquired as a result of personal service rendered in the employ of an affiliated public employer; and

(3) the aggregate amount of credited service purchased pursuant to this subsection does not exceed five years.

D. A member who was appointed to participate in a cooperative work study training program established jointly by a state agency and a state post-secondary educational institution may purchase credited service for the period of participation subject to the following conditions:

(1) the member pays the association the full actuarial present value of the amount of the increase in the employee's pension as a consequence of the purchase as determined by the association;

(2) the member pays the full cost of the purchase within sixty days of the date the member is informed of the amount of the payment;

(3) the member has five or more years of credited service acquired as a result of personal service rendered in the employ of an affiliated public employer; and

(4) the aggregate amount of credited service purchased pursuant to this subsection does not exceed five years.

E. Except for service to be used under a state legislator coverage plan, the purchase cost for each month of credited service purchased pursuant to the provisions of this section is equal to the member's final average salary multiplied by the sum of the member contribution rate and employer contribution rate, determined in accordance with the coverage plan applicable to the member at the time of the written election to purchase. The purchase cost for each year of credited service to be used under a state legislator coverage plan is equal to three times the normal member contribution per year of credited service under the state legislator coverage plan applicable to the member. Full payment shall be made in a single lump sum within sixty days of the date the member is informed of the amount of the payment. The portion of the purchase cost derived from the employer contribution rate shall be credited to the employer's accumulation fund and shall not be paid out of the association in the event of cessation

of membership. In no case shall a member be credited with a month of service for less than the purchase cost as defined in this section.

F. A member shall be refunded, upon written request filed with the association, the portion of the purchase cost of credited service purchased pursuant to this section that the association determines to have been unnecessary to provide the member with the maximum pension applicable to the member. The association shall not pay interest on the portion of the purchase cost refunded to the member.

G. A member of the magistrate retirement system who during the member's service as a magistrate was eligible to become a member of the public employees retirement system and elected not to become a member of that system may purchase service credit pursuant to the public employees retirement system for the period for which the magistrate elected not to become a public employees retirement system member, by paying the amount of the increase in the actuarial present value of the magistrate pension as a consequence of the purchase as determined by the association. Full payment shall be made in a single lump-sum amount in accordance with procedures established by the retirement board. Except as provided in Subsection F of this section, seventy-five percent of the purchase cost shall be considered to be employer contributions and shall not be refunded to the member in the event of cessation of membership.

H. At any time prior to retirement, any member may purchase service credit in monthly increments, subject to the following conditions:

(1) the member has at least five years of service credit acquired as a result of personal service rendered in the employ of an affiliated public employer;

(2) the aggregate amount of service credit purchased pursuant to this subsection does not exceed one year;

(3) the member pays full actuarial present value of the amount of the increase in the employee's pension as a consequence of the purchase as determined by the association;

(4) the member pays the full cost of the purchase within sixty days of the date the member is informed of the amount of the payment; and

(5) the purchase of service under this subsection cannot be used to determine the final average salary or the pension factor or be used to exceed the pension maximum."

Approved April 2, 2007

## **LAWS 2007, CHAPTER 196**

AN ACT

RELATING TO MUNICIPALITIES; AUTHORIZING A MUNICIPALITY TO INCLUDE IN-KIND SERVICES AS PART OF THE CONSIDERATION FOR A HOSPITAL LEASE.

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

### **Chapter 196 Section 1 Laws 2007**

Section 1. Section 3-44-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-45-1, as amended) is amended to read:

"3-44-1. HOSPITALS--AUTHORITY.--A municipality may:

- A. control and regulate hospitals;
- B. construct hospitals and medical dispensaries;
- C. contribute to the support of any county hospital located within the municipality;
- D. own, maintain and operate hospitals;
- E. charge for hospital services rendered;
- F. lease the hospital, sanitarium or other institution upon such terms and conditions as the governing body may determine to any person, corporation or association for the operation and maintenance of the hospital; provided that the lease may be terminated by the governing body of the municipality without cause upon one hundred eighty days' notice after the first three years of the lease; and further provided that a person, association or corporation demonstrating a consistent history of service to sick and indigent persons may include the value of in-kind services provided to the municipality as a portion of consideration due on any lease for the use of hospital facilities owned by the municipality. The lease agreement must set forth the respective value of services being provided to residents and the relative value of the use of property provided by the municipality;
- G. contract with the human services department or the board of county commissioners for the care of sick or indigent persons;
- H. accept grants for constructing, equipping and maintaining the hospital; and

I. perform any act or adopt any regulation necessary or expedient to carry out the provisions of this section."

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House Bill 1221, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 197**

### **AN ACT**

RELATING TO MILITARY AFFAIRS; CLARIFYING THAT MONEY IN THE SERVICE MEMBERS' LIFE INSURANCE REIMBURSEMENT FUND DOES NOT REVERT.

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

### **Chapter 197 Section 1 Laws 2007**

Section 1. Section 20-4-7.3 NMSA 1978 (being Laws 2005, Chapter 2, Section 2) is amended to read:

"20-4-7.3. SERVICE MEMBERS' LIFE INSURANCE REIMBURSEMENT FUND CREATED--PURPOSE--APPROPRIATION.--

A. The "service members' life insurance reimbursement fund" is created as a nonreverting fund in the state treasury. The fund shall consist of legislative appropriations to the fund; gifts, grants, donations and bequests to the fund; and income from investment of the fund. Expenditures from the fund shall be made on warrants drawn by the secretary of finance and administration signed by the adjutant general of the department of military affairs or the adjutant general's authorized representative.

B. The fund shall be administered by the department of military affairs, and money in the fund is appropriated to the department of military affairs for the purpose of reimbursing eligible members of the New Mexico national guard for premiums paid for benefits under the servicemembers' group life insurance program pursuant to 38 U.S.C. Section 1965 et seq., as amended.

C. The department of military affairs shall adopt rules necessary to determine eligibility for reimbursement from the service members' life insurance reimbursement fund and to implement a reimbursement program.

D. Nothing in this section is intended to alter, amend or change the eligibility or applicability of the servicemembers' group life insurance program pursuant to 38 U.S.C.

Section 1965 et seq., as amended, or any rights, responsibilities or benefits thereunder."

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House Bill 1238

Approved April 2, 2007

## **LAWS 2007, CHAPTER 198**

AN ACT

RELATING TO CHARTER SCHOOL REQUIREMENTS; AMENDING SECTION 22-8B-6 NMSA 1978 (BEING LAWS 1999, CHAPTER 281, SECTION 6, AS AMENDED) TO CLARIFY ENROLLMENT LIMITS; DECLARING AN EMERGENCY.

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

### **Chapter 198 Section 1 Laws 2007**

Section 1. Section 22-8B-6 NMSA 1978 (being Laws 1999, Chapter 281, Section 6, as amended) is amended to read:

"22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION PROCESS--AUTHORIZATION--BOARD OF FINANCE DESIGNATION REQUIRED.--

A. A local school board has the authority to approve the establishment of a charter school within the school district in which it is located.

B. At least one hundred eighty days prior to initial application, the organizers of a proposed charter school shall provide written notification to the commission and the school district in which the charter school is proposed to be located of intent to establish a charter school. Failure to notify may result in an application not being accepted.

C. A charter school applicant shall apply to either a local school board or the commission for a charter. If an application is submitted to a chartering authority, it must process the application. Applications for initial charters shall be submitted by July 1 to be eligible for consideration for the following fiscal year; provided that the July 1 deadline may be waived upon agreement of the applicant and the chartering authority.

D. An application shall include the total number of grades the charter school proposes to provide, either immediately or phased. A charter school may decrease the number of grades it eventually offers, but it shall not increase the number of grades or the total number of students proposed to be served in each grade.

E. An application shall include a detailed description of the charter school's projected capital outlay needs, including projected requests for capital outlay assistance.

F. An application for a start-up school may be made by one or more teachers, parents or community members or by a public post-secondary educational institution or nonprofit organization. Municipalities, counties, private post-secondary educational institutions and for-profit business entities are not eligible to apply for or receive a charter.

G. An initial application for a charter school shall not be made after June 30, 2007 if the proposed charter school's proposed enrollment for all grades or the proposed charter school's proposed enrollment for all grades in combination with any other charter school's enrollment for all grades would equal or exceed ten percent of the total MEM of the school district in which the charter school will be geographically located and that school district has a total enrollment of not more than one thousand three hundred students.

H. A state-chartered charter school shall not be approved for operation unless its governing body has qualified to be a board of finance.

I. The chartering authority shall receive and review all applications for charter schools submitted to it. The chartering authority shall not charge application fees.

J. The chartering authority shall hold at least one public meeting in the school district in which the charter school is proposed to be located to obtain information and community input to assist it in its decision whether to grant a charter school application. Community input may include written or oral comments in favor of or in opposition to the application from the applicant, the local community and, for state-chartered charter schools, the local school board and school district in whose geographical boundaries the charter school is proposed to be located. The chartering authority shall rule on the application for a charter school in a public meeting within sixty days after receiving the application. If not ruled upon within sixty days, the charter application shall be automatically reviewed by the secretary in accordance with the provisions of Section 22-

8B-7 NMSA 1978. The charter school applicant and the chartering authority may, however, jointly waive the deadlines set forth in this section.

K. A chartering authority may approve, approve with conditions or deny an application. A chartering authority may deny an application if:

(1) the application is incomplete or inadequate;

(2) the application does not propose to offer an educational program consistent with the requirements and purposes of the Charter Schools Act;

(3) the proposed head administrator or other administrative or fiscal staff was involved with another charter school whose charter was denied or revoked for fiscal mismanagement or the proposed head administrator or other administrative or fiscal staff was discharged from a public school for fiscal mismanagement;

(4) for a proposed state-chartered charter school, it does not request to have the governing body of the charter school designated as a board of finance or the governing body does not qualify as a board of finance; or

(5) the application is otherwise contrary to the best interests of the charter school's projected students, the local community or the school district in whose geographic boundaries the charter school applies to operate.

L. If the chartering authority denies a charter school application or approves the application with conditions, it shall state its reasons for the denial or conditions in writing within fourteen days of the meeting. If the chartering authority grants a charter, the approved charter shall be provided to the applicant together with any imposed conditions.

M. A charter school that has received a notice from the chartering authority denying approval of the charter shall have a right to a hearing by the secretary as provided in Section 22-8B-7 NMSA 1978."

## **Chapter 198 Section 2 Laws 2007**

Section 2. TEMPORARY PROVISION--TRANSITION.--Notwithstanding the effective date of the Charter Schools Act of July 1, 2007, no school district shall approve an application for a new charter school in a district with a total student membership of one thousand three hundred students or less until the effective date of the Charter Schools Act.

## **Chapter 198 Section 3 Laws 2007**

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 1245

with emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 199**

## AN ACT

RELATING TO TAXATION; PROVIDING FOR THE IMPOSITION OF A COUNTY REGIONAL TRANSIT GROSS RECEIPTS TAX; REPEALING THE MUNICIPAL REGIONAL TRANSIT GROSS RECEIPTS TAX.

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

### **Chapter 199 Section 1 Laws 2007**

Section 1. Section 7-20E-23 NMSA 1978 (being Laws 2004, Chapter 17, Section 2) is amended to read:

"7-20E-23. COUNTY REGIONAL TRANSIT GROSS RECEIPTS TAX--  
AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

A. Upon a request by resolution of the board of directors of a regional transit district, a majority of the members of the governing body of each county that is within the district shall impose by identical ordinances an excise tax at the rate specified in the resolution, but not to exceed one-half percent of the gross receipts of any person engaging in business in the district for the privilege of engaging in business. A tax imposed pursuant to this section may be imposed by one or more ordinances, each imposing any number of tax rate increments, but an increment shall not be less than one-sixteenth percent of the gross receipts of any person engaging in business in the district and the aggregate of all rates shall not exceed one-half percent of the gross receipts of any person engaging in business in the district. The tax may be referred to as the "county regional transit gross receipts tax".

B. Each governing body, at the time of enacting an ordinance imposing the tax authorized in Subsection A of this section, shall dedicate the revenue for the purposes authorized by the Regional Transit District Act.

C. An ordinance imposing a county regional transit gross receipts tax shall not go into effect until after a joint election is held by all counties within the district and a majority of the voters of the district voting in the election votes in favor of imposing the tax. Each governing body shall adopt an ordinance calling for a joint election within seventy-five days of the date the resolution is adopted on the question of imposing the tax. The question shall be submitted to the voters of the district as a separate question at a general election or at a joint special election called for that purpose by each governing body. A joint special election shall be called, conducted and canvassed substantially in the same manner as provided by law for general elections. If a majority of the voters in the district voting on the question approves the ordinance imposing the county regional transit gross receipts tax, the ordinance shall become effective in accordance with the provisions of the County Local Option Gross Receipts Taxes Act. If the question of imposing the county regional transit gross receipts tax fails, the

governing bodies shall not again propose the imposition of any increment of the tax for a period of one year from the date of the election.

D. The governing body of a county imposing a county regional transit gross receipts tax shall transfer all proceeds from the tax to the regional transit district for the purposes specified in the ordinance and in accordance with the provisions of the Regional Transit District Act.

E. As used in this section, "county within the district" means a county within which lies any portion of a regional transit district."

### **Chapter 199 Section 2 Laws 2007**

Section 2. REPEAL.--Section 7-19D-13 NMSA 1978 (being Laws 2004, Chapter 17, Section 1) is repealed.

### **Chapter 199 Section 3 Laws 2007**

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 1265

Approved April 2, 2007

## **LAWS 2007, CHAPTER 200**

AN ACT

RELATING TO GOVERNMENT ORGANIZATION; CREATING THE WORKFORCE SOLUTIONS DEPARTMENT; PROVIDING POWERS AND DUTIES; PROVIDING FOR TRANSFERS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

### **Chapter 200 Section 1 Laws 2007**

Section 1. SHORT TITLE.--Sections 1 through 14 of this act may be cited as the "Workforce Solutions Department Act".

### **Chapter 200 Section 2 Laws 2007**

Section 2. PURPOSE.--The purpose of the Workforce Solutions Department Act is to establish a single, unified department to administer all laws and exercise all functions formerly administered and exercised by the labor department and the office of workforce development.

### **Chapter 200 Section 3 Laws 2007**

Section 3. DEFINITIONS.--As used in the Workforce Solutions Department Act:

- A. "department" means the workforce solutions department; and
- B. "secretary" means the secretary of workforce solutions.

### **Chapter 200 Section 4 Laws 2007**

Section 4. WORKFORCE SOLUTIONS DEPARTMENT CREATED.--The "workforce solutions department" is created in the executive branch pursuant to the Executive Reorganization Act. The department is a cabinet department that includes:

- A. the office of the secretary;
- B. the administrative services division;
- C. the business services division;
- D. the labor relations division;
- E. the workforce technology division; and
- F. the workforce transition services division.

### **Chapter 200 Section 5 Laws 2007**

Section 5. SECRETARY OF WORKFORCE SOLUTIONS--APPOINTMENT.--

A. The chief executive and administrative officer of the department is the "secretary of workforce solutions". The secretary shall be appointed by the governor with the consent of the senate. The secretary shall hold office at the pleasure of the governor and shall serve in the executive cabinet.

B. A secretary who has been appointed but not yet confirmed shall serve and have all the duties, responsibilities and authority assigned by law to that office during the period of time prior to the final action by the senate to confirm or reject the appointment.

## Chapter 200 Section 6 Laws 2007

### Section 6. SECRETARY--GENERAL POWERS AND DUTIES.--

A. The secretary is responsible to the governor for the operation of the department. It is the secretary's duty to manage all operations of the department and to administer and enforce the laws with which the secretary or the department is charged.

B. To perform the secretary's duties, the secretary has every power expressly enumerated in the laws whether granted to the secretary or the department or any division of the department, except where authority conferred upon the human rights commission is explicitly granted by Section 28-1-4 NMSA 1978 and except where authority conferred upon any division therein is explicitly exempted from the secretary's authority by statute. In accordance with these provisions, the secretary shall:

(1) except as otherwise provided in the Workforce Solutions Department Act, exercise general supervisory and appointing authority over all department employees, subject to any applicable personnel laws and regulations;

(2) delegate authority to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto;

(3) organize the department into those organizational units the secretary deems will enable it to function most efficiently, subject to any provisions of law requiring or establishing specific organizational units;

(4) within the limitations of available appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge the secretary's duties;

(5) take administrative action by issuing orders and instructions, not inconsistent with the law, to ensure implementation of and compliance with the provisions of law with the administration or execution of which the secretary is responsible, and to enforce those orders and instructions by appropriate administrative action or actions in the court;

(6) conduct research and studies that will improve the operation of the department;

(7) provide courses of instruction and practical training for employees of the department and other persons involved in the administration of programs with the objective of improving the operations and efficiency of administration;

(8) prepare an annual budget of the department;

(9) provide cooperation, at the request of heads of administratively attached agencies, in order to:

(a) minimize or eliminate duplication of services and jurisdictional conflicts;

(b) coordinate activities and resolve problems of mutual concern; and

(c) resolve by agreement the manner and extent to which the department shall provide budgeting, record keeping and related clerical assistance to administratively attached agencies, if any; and

(10) within budgetary limits, appoint such staff as required to carry out the duties of the secretary or the department.

C. The secretary may apply for and receive, with the governor's approval, in the name of the department, any public or private funds, including United States government funds, available to the department to carry out its programs, duties or services.

D. Where functions of departments overlap or a function assigned to one department could better be performed by another department, the secretary may recommend appropriate legislation to the next session of the legislature for its approval.

E. The secretary may make and adopt such reasonable and procedural rules as may be necessary to carry out the duties of the department and its divisions. No rule promulgated by the director of any division in carrying out the functions and duties of the division shall be effective until approved by the secretary unless otherwise provided by statute. Unless otherwise provided by statute, no rule affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the secretary or a hearing officer designated by the secretary. The public hearing shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the rule, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed rule, proposed amendment or repeal of an existing rule may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation in the state and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing. All rules shall be filed in accordance with the State Rules Act.

## **Chapter 200 Section 7 Laws 2007**

Section 7. ADMINISTRATIVELY ATTACHED AGENCIES.--The following are administratively attached to the department:

- A. the human rights commission;
- B. the labor and industrial commission; and
- C. the state workforce development board.

### **Chapter 200 Section 8 Laws 2007**

Section 8. DIVISION DIRECTORS.--The secretary shall appoint, with the approval of the governor, directors of such divisions as are established within the department. The positions so appointed are exempt from the Personnel Act.

### **Chapter 200 Section 9 Laws 2007**

Section 9. BUREAU--CHIEFS.--The secretary shall establish within each division such bureaus as the secretary deems necessary to carry out the provisions of the Workforce Solutions Department Act. The secretary shall employ a chief to be administrative head of each bureau.

### **Chapter 200 Section 10 Laws 2007**

Section 10. PERSONNEL ACT COVERAGE.--All employees and positions in the department, except for the positions of secretary and division directors and other positions expressly permitted to be exempt by the Personnel Act, shall be covered by and shall be subject to the provisions of the Personnel Act. The secretary is the appointing authority.

### **Chapter 200 Section 11 Laws 2007**

Section 11. COOPERATION WITH FEDERAL GOVERNMENT--AUTHORITY OF SECRETARY--SINGLE STATE AGENCY STATUS.--

A. The department is authorized to cooperate with the federal government in the administration of employment, training and public assistance programs under the jurisdiction of the department in which financial or other participation by the federal government is authorized or mandated under federal laws, regulations, rules or orders. The secretary may enter into agreements with agencies of the federal government to implement employment, training and public assistance programs subject to availability of appropriated state funds and any provisions of state laws applicable to such agreements or participation by the state.

B. The governor or the secretary may designate the department or any organizational unit of the department as the single state agency for the administration of any employment, training or public assistance program, either by the governor's or the secretary's own discretion or when such designation is a condition of federal financial or

other participation in the program under applicable federal law, regulation, rule or order. No designation of a single state agency under the authority granted in this section shall be made in contravention of state law.

### **Chapter 200 Section 12 Laws 2007**

Section 12. ADVISORY COMMITTEES.--The secretary, with the consent of the governor, may create advisory committees in accordance with the provisions of Section 9-1-9 NMSA 1978. The secretary shall appoint the members of advisory committees with the consent of the governor. If the existence of an advisory committee, its representational membership requirements or other matters are required or specified under any federal law, regulation, rule or order as a condition for receiving federal funds for any program administered by the department, the secretary and the governor shall comply with such requirements in creating the advisory committee.

### **Chapter 200 Section 13 Laws 2007**

Section 13. ORGANIZATIONAL UNITS OF DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--Those organizational units of the department and the officers of those units specified by law shall have all the powers and duties enumerated in the specific laws assigned to their organizational units for administration. However, the carrying out of those powers and duties shall be subject to the direction and supervision of the secretary, and the secretary shall retain the final decision-

making authority and responsibility in accordance with the provisions of Subsection B of Section 6 of the Workforce Solutions Department Act. The department shall have access to all records, data and information of other departments, agencies and institutions, including its own organizational units not specifically held confidential by law.

### **Chapter 200 Section 14 Laws 2007**

Section 14. DISCLOSURE OF INFORMATION.--To the extent permitted by federal law, upon the written request of a corporation organized pursuant to the Educational Assistance Act, the department shall furnish the last known address and the date of that address of every person certified to the department as being an absent obligor of an educational debt that is due and owed to the corporation or that the corporation has lawfully contracted to collect. The corporation and its officers and employees shall use such information only for the purpose of enforcing the educational debt obligation of such absent obligors and shall not disclose that information or use it for any other purpose.

### **Chapter 200 Section 15 Laws 2007**

Section 15. Section 13-4D-1 NMSA 1978 (being Laws 1992, Chapter 74, Section 1) is amended to read:

"13-4D-1. SHORT TITLE.--Chapter 13, Article 4D NMSA 1978 may be cited as the "Public Works Apprentice and Training Act"."

### **Chapter 200 Section 16 Laws 2007**

Section 16. Section 13-4D-3 NMSA 1978 (being Laws 1992, Chapter 74, Section 3) is amended to read:

"13-4D-3. DEFINITIONS.--As used in the Public Works Apprentice and Training Act:

A. "approved apprentice and training programs" means building trades apprenticeship and training programs in New Mexico that are recognized by the bureau of apprenticeship and training of the United States department of labor or the New Mexico apprenticeship council;

B. "compliance statement" means a monthly record of an employer's contributions paid into an approved apprentice and training program in New Mexico or into the public works apprentice and training fund;

C. "director" or "division" means the labor relations division of the workforce solutions department; and

D. "employer" means a contractor, subcontractor or any person acting as a contractor on a public works project, as that term is defined in the provisions of the Construction Industries Licensing Act."

### **Chapter 200 Section 17 Laws 2007**

Section 17. Section 28-1-2 NMSA 1978 (being Laws 1969, Chapter 196, Section 2, as amended) is amended to read:

"28-1-2. DEFINITIONS.--As used in the Human Rights Act:

A. "person" means one or more individuals, a partnership, association, organization, corporation, joint venture, legal representative, trustees, receivers or the state and all of its political subdivisions;

B. "employer" means any person employing four or more persons and any person acting for an employer;

C. "commission" means the human rights commission;

D. "director" or "bureau" means the human rights bureau of the labor relations division of the workforce solutions department;

E. "employee" means any person in the employ of an employer or an applicant for employment;

F. "labor organization" means any organization that exists for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employment;

G. "employment agency" means any person regularly undertaking with or without compensation to procure opportunities to work or to procure, recruit or refer employees;

H. "public accommodation" means any establishment that provides or offers its services, facilities, accommodations or goods to the public, but does not include a bona fide private club or other place or establishment that is by its nature and use distinctly private;

I. "housing accommodation" means any building or portion of a building that is constructed or to be constructed, which is used or intended for use as the residence or sleeping place of any individual;

J. "real property" means lands, leaseholds or commercial or industrial buildings, whether constructed or to be constructed, offered for sale or rent, and any land rented or leased for the use, parking or storage of house trailers;

K. "secretary" means the secretary of workforce solutions;

L. "unlawful discriminatory practices" means those unlawful practices and acts specified in Section 28-1-7 NMSA 1978;

M. "physical or mental handicap" means a physical or mental impairment that substantially limits one or more of a person's major life activities. A person is also considered to be physically or mentally handicapped if the person has a record of a physical or mental handicap or is regarded as having a physical or mental handicap;

N. "major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working;

O. "applicant for employment" means a person applying for a position as an employee;

P. "sexual orientation" means heterosexuality, homosexuality or bisexuality, whether actual or perceived; and

Q. "gender identity" means a person's

self-perception, or perception of that person by another, of the person's identity as a male or female based upon the person's appearance, behavior or physical characteristics that are in accord with or opposed to the person's physical anatomy, chromosomal sex or sex at birth."

## **Chapter 200 Section 18 Laws 2007**

Section 18. Section 50-14-2 NMSA 1978 (being Laws 1999, Chapter 260, Section 2, as amended) is amended to read:

"50-14-2. DEFINITIONS.--As used in the Workforce Development Act:

A. "board" means the state workforce development board;

B. "chief elected official" means the chief elected executive officer of a unit of general local government in a local area and in a case in which a local area includes more than one unit of general local government, "chief elected official" means the person designated under the agreement described in Section 117 (c)(1)(B) of the federal Workforce Investment Act of 1998;

C. "employment training program" means a program or a part of a program, regardless of which state or local agency administers it, that has as its primary purpose assisting persons in obtaining or enhancing employment;

D. "local board" means a local workforce development board; and

E. "office" or "division" means the workforce transition services division of the workforce solutions department."

## **Chapter 200 Section 19 Laws 2007**

Section 19. Section 50-14-9 NMSA 1978 (being Laws 2005, Chapter 111, Section 10) is amended to read:

"50-14-9. WORKFORCE TRANSITION SERVICES DIVISION.--

A. The "workforce transition services division" is created in the workforce solutions department.

B. The division shall be the recipient of all grants from the United States pursuant to the federal Workforce Investment Act of 1998 and shall disburse those grants consistent with that act and the Workforce Development Act.

C. The division shall administer the provisions of the Workforce Development Act and is the governor's designee for the state with authority to administer New Mexico's program pursuant to the federal Workforce Investment Act of 1998. In performance of that duty and the duties set forth in Section 50-14-10 NMSA 1978, the division has the general power to:

(1) sue and, subject to the provisions of the Tort Claims Act, be sued;

(2) enter into contracts, joint powers agreements and other contracts for workforce development services and administer related programs with other state agencies; local governments; state institutions of higher learning; Indian nations, tribes or pueblos; regional provider networks; and corporations authorized to do business in the state;

(3) take administrative action by issuing orders and instructions, not inconsistent with law, to ensure implementation of and compliance with the provisions of law for which the division is responsible and to enforce those orders and instructions by appropriate administrative actions or actions in courts;

(4) promulgate, following the procedure in Subsection E of Section 9-1-5 NMSA 1978, reasonable rules necessary to carry out the duties of the division; and

(5) take all other actions necessary to meet the purposes of the Workforce Development Act."

## **Chapter 200 Section 20 Laws 2007**

Section 20. Section 50-14-10 NMSA 1978 (being Laws 2005, Chapter 111, Section 11) is amended to read:

"50-14-10. DIVISION--DUTIES.--The division shall:

A. provide technical, administrative and fiscal agent support to the board;

B. develop a unified, comprehensive plan for streamlining and integrating employment training programs, including the consolidation of all employment training programs, into the division. The division shall report annually to the governor and the legislature generally the progress and effectiveness of the workforce development system no later than September 1;

C. develop a performance-based system of accountability for employment training programs, including the board, local boards, one-stop centers and training providers, which system shall include key performance benchmarks to be used to monitor and assess performance;

D. monitor compliance with performance-based and coordination standards, including such standards as the division establishes by rule, with approval of the board, or that the board has adopted in the state plan, for the state's employment training programs regardless of funding source or the administrative agency that receives the funds. In performing this duty, the division:

(1) may issue subpoenas to appear and answer questions or produce documents;

(2) may investigate substantial allegations of improper financial or program activities;

(3) shall submit compliance reports to the governor; and

(4) shall, with approval of the governor, issue such corrective action orders as are necessary to enforce compliance, including orders that suspend funding for employment training programs or that transfer the programs to another agency;

E. promote the active participation and partnership with community colleges wherever possible throughout the state, which shall include the use of community colleges in creating career pathways and the use of available partnership incentives with local boards to use community college facilities for one-stop locations, co-location opportunities and specifically designed training programs; and

F. provide oversight and technical support for local boards to assist them in achieving independence and meeting performance standards while implementing statewide goals and directions."

## **Chapter 200 Section 21 Laws 2007**

Section 21. Section 50-15-2 NMSA 1978 (being Laws 2005, Chapter 257, Section 2) is amended to read:

"50-15-2. DEFINITIONS.--As used in the Day Laborer Act:

A. "check cashing service" means a business that for a fee offers to cash checks or other payment instruments or that advertises that it cashes checks or other payment instruments;

B. "day labor" means employment that is under a contract between a day labor service agency and a third-party employer, that is occasional or irregular and that is for a limited time period;

C. "day labor service agency" means an entity, including a labor broker or labor pool, that provides day laborers to third-party employers and that charges the third-party

employer for the service of providing day laborers for employment offered by the employer;

D. "day laborer" means a person who contracts for day labor employment with a day labor service agency;

E. "department" means the workforce solutions department;

F. "office worker" means a person employed to perform clerical, secretarial or other semiskilled or skilled work that is predominantly performed in an office setting;

G. "payment instrument" means a paycheck, payment voucher or other negotiable instrument from an employer provided to an employee to pay for hours worked; and

H. "third-party employer" means a person that contracts with a day labor service agency for the employment of day laborers."

## **Chapter 200 Section 22 Laws 2007**

Section 22. Section 51-1-2 NMSA 1978 (being Laws 1979, Chapter 280, Section 11, as amended) is amended to read:

"51-1-2. DEFINITIONS.--As used in the Unemployment Compensation Law:

A. "department" means the workforce solutions department;

B. "division" means the workforce transition services division of the department, the director of the division or an employee of the division exercising authority lawfully delegated to the employee by the director; and

C. "secretary" means the secretary of workforce solutions or an employee of the department exercising authority lawfully delegated to the employee by the secretary."

## **Chapter 200 Section 23 Laws 2007**

Section 23. TEMPORARY PROVISIONS--TRANSFERS.--

A. On July 1, 2007, all functions, personnel, appropriations, money, buildings, files, records, furniture, equipment and other property of the labor department, including any divisions of the department, are transferred to the workforce solutions department.

B. On July 1, 2007, all functions, personnel, appropriations, money, files, records, furniture, equipment and other property of the office of workforce training and development are transferred to the workforce solutions department.

C. On July 1, 2007, all contractual obligations of the labor department, including any divisions of the department, are transferred to the workforce solutions department.

D. On July 1, 2007, all contractual obligations of the office of workforce training and development are transferred to the workforce solutions department.

E. On July 1, 2007, all statutory references to the labor department or any divisions of the labor department shall be deemed to be references to the workforce solutions department.

F. On July 1, 2007, all statutory references to the office of workforce training and development shall be deemed to be references to the workforce solutions department.

### **Chapter 200 Section 24 Laws 2007**

Section 24. REPEAL.--Sections 9-18-1 through 9-18-15, 50-1-1.5, 50-1-9, 50-6-15 and 50-14-16 NMSA 1978 (being Laws 1987, Chapter 342, Sections 1 through 14, Laws 1993, Chapter 16, Section 2, Laws 1979, Chapter 204, Section 8, Laws 1987, Chapter 333, Section 2, Laws 1963, Chapter 175, Section 4 and Laws 2005, Chapter 111, Section 25, as amended) are repealed.

### **Chapter 200 Section 25 Laws 2007**

Section 25. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Appropriations and Finance Committee

Substitute for House Bill 1280

with certificate of correction

Approved April 2, 2007

## **LAWS 2007, CHAPTER 201**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
PROVIDING FOR A DWI RECIDIVISM COMPONENT IN ALL DRIVER  
REHABILITATION PROGRAMS; AMENDING A SECTION OF THE NMSA 1978.

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

## Chapter 201 Section 1 Laws 2007

Section 1. Section 66-7-506 NMSA 1978 (being Laws 1978, Chapter 35, Section 493, as amended) is amended to read:

"66-7-506. BUREAU--FUNCTIONS--POWERS--DUTIES.--The bureau shall have the following powers and duties:

A. organize, plan and conduct a statewide program of activities designed to prevent accidents and to reduce the incidence of DWI in New Mexico;

B. coordinate activities and programs of the departments, divisions and agencies of this state now engaged in promoting traffic safety;

C. provide accident prevention information and publicity to all appropriate media of information and develop other means of public information;

D. cooperate with all public and private agencies and organizations interested in the promotion of traffic safety and accident prevention;

E. serve as a clearinghouse for all traffic safety materials and information used throughout this state;

F. cooperate in promoting research, special studies and analysis of problems concerning the safety and welfare of the citizens of New Mexico;

G. cooperate fully with national safety organizations in bringing about greater effectiveness in nationwide accident prevention activities and programs;

H. make studies and suitable recommendations, through the chief and the secretary of transportation, to the legislature concerning safety regulations and laws;

I. prepare and submit each year a written report to the governor concerning the activities of the bureau and activities concerning assistance to local organizations and officials;

J. institute and administer a statewide motorcycle training program funded as provided for in Section 66-10-10 NMSA 1978;

K. institute and administer an accident prevention course for elderly drivers as provided for in Section 59A-32-14 NMSA 1978;

L. cooperate with the public education department to develop a regulatory framework for instructional and administrative processes, including licensure requirements for instructors, and a curriculum for instruction in defensive driving with a

DWI education and prevention component to be offered statewide in secondary schools as an elective;

M. institute and administer a DWI prevention and education program for elementary and secondary school students, funded as provided for in Section 66-5-35 NMSA 1978;

N. include at least two hours of DWI prevention and education training in all driver education courses approved by the bureau; and

O. include a DWI recidivism prevention component in all driver rehabilitation programs for alcohol or drugs approved by the bureau."

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House Judiciary Committee Substitute

for House Bill 1311

Approved April 2, 2007

## **LAWS 2007, CHAPTER 202**

### **AN ACT**

RELATING TO ELECTIONS; CHANGING CANDIDATE REPORTING REQUIREMENTS OF THE CAMPAIGN REPORTING ACT.

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

### **Chapter 202 Section 1 Laws 2007**

Section 1. Section 1-19-29 NMSA 1978 (being Laws 1993, Chapter 46, Section 5, as amended) is amended to read:

"1-19-29. TIME AND PLACE OF FILING REPORTS.--

A. Annually, except as otherwise provided in this section, all reporting individuals shall file with the proper filing officer by 5:00 p.m. on the second Monday in May a report of all expenditures made and contributions received on or before the first Monday in May and not previously reported. The report shall be filed annually until the reporting individual's bank account has been closed and the other provisions specified in Subsection F of this section have been satisfied.

B. In an election year, in addition to the May report provided for in Subsection A of this section, all reporting individuals, except for persons who file a statement of

exception pursuant to Section 1-19-33 NMSA 1978, candidates who file a statement of no activity and public officials who are not candidates in an election that year, shall file reports of all expenditures made and contributions received according to the following schedule:

(1) by 5:00 p.m. on the second Monday in October, a report of all expenditures made and contributions received on or before the first Monday in October and not previously reported;

(2) by 5:00 p.m. on the Thursday before a primary, general or statewide special election, a report of all expenditures made and contributions received by 5:00 p.m. on the Tuesday before the election. Any contribution or pledge to contribute that is received after 5:00 p.m. on the Tuesday before the election and that is for five hundred dollars (\$500) or more in a legislative or non-statewide judicial election, or two thousand five hundred dollars (\$2,500) or more in a statewide election, shall be reported to the proper filing officer either in a supplemental report on a prescribed form within twenty-four hours of receipt or in the report to be filed by 5:00 p.m. on the Thursday before a primary, general or statewide special election, except that any such contribution or pledge to contribute that is received after 5:00 p.m. on the Friday before the election may be reported by 12:00 noon on the Monday before the election; and

(3) by 5:00 p.m. on the thirtieth day after a primary, general or statewide special election, a report of all expenditures made and contributions received on or before the twenty-fifth day after the election and not previously reported.

C. If a candidate has not received any contributions and has not made any expenditures since the candidate's last report was filed with the proper filing officer, the candidate shall only be required to file a statement of no activity, which shall not be required to be notarized, in lieu of a full report when that report would otherwise be due and shall not be required to file a full report until the next required filing date occurring after an expenditure is made or a contribution is received.

D. Notwithstanding the other provisions of this section, the report due on the thirtieth day after an election need be the only report filed after the annual May report if the candidate is not opposed in the election and if the report includes all expenditures made and contributions received for that election and not previously reported.

E. A report of expenditures and contributions filed after a deadline set forth in this section shall not be deemed to have been timely filed.

F. Except for candidates who file a statement of no activity, each reporting individual shall file a report of expenditures and contributions annually pursuant to the filing schedule set forth in this section, regardless of whether any expenditures were made or contributions were received during the reporting period. Reports shall be required until the reporting individual delivers a report to the proper filing officer stating that:

(1) there are no outstanding campaign debts;

(2) all money has been expended in accordance with the provisions of Section 1-19-29.1 NMSA 1978; and

(3) the bank account has been closed.

G. Each treasurer of a political committee shall file a report of expenditures and contributions annually pursuant to the filing schedule set forth in this section until the treasurer files a report that affirms that the committee has dissolved or no longer exists and that its bank account has been closed.

H. A reporting individual who is a candidate within the meaning of the Campaign Reporting Act because of the amount of contributions the candidate receives or expenditures the candidate makes and who does not ultimately file a declaration of candidacy or a nominating petition with the proper filing officer and does not file a statement of no activity shall nevertheless file a report, not later than the second Monday in May for a primary election or the second Monday in October for a general election, of all contributions received and expenditures made on or before the first Monday in May for a primary election or the first Monday in October for a general election and not previously reported.

I. Reports required by this section shall be subscribed and sworn to by the candidate or the treasurer of the political committee. A report filed electronically shall be electronically authenticated by the candidate or the treasurer of the political committee using an electronic signature in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act. For the purposes of the Campaign Reporting 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 candidate or the treasurer of the political committee who was required to file the report.

J. Reports required by this section shall be filed electronically by all reporting individuals.

K. Reporting individuals may apply to the secretary of state for exemption from electronic filing in case of hardship, which shall be defined by the secretary of state."

## **Chapter 202 Section 2 Laws 2007**

Section 2. Section 1-19-31 NMSA 1978 (being Laws 1979, Chapter 360, Section 7, as amended) is amended to read:

"1-19-31. CONTENTS OF REPORT.--

A. Each required report of expenditures and contributions shall be typed or printed legibly, or on a computer disc or format approved by the secretary of state, and shall include:

(1) the name and address of the person or entity to whom an expenditure was made or from whom a contribution was received, except as provided for anonymous contributions or contributions received from special events as provided in Section 1-19-34 NMSA 1978; provided that for contributors, the name of the entity or the first and last names of any individual shall be the full name of the entity or individual, and initials only shall not constitute a full name unless that is the complete legal name;

(2) the occupation or type of business of any person or entity making contributions of two hundred fifty dollars (\$250) or more in the aggregate per election;

(3) the amount of the expenditure or contribution or value thereof;

(4) the purpose of the expenditure; and

(5) the date the expenditure was made or the contribution was received.

B. Each report shall contain an opening and

closing cash balance for the bank account maintained by the reporting individual during the reporting period and the name of the financial institution.

C. Each report shall specify the amount of each unpaid debt and the identity of the person to whom the debt is owed."

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Senate Public Affairs Committee

Substitute for Senate Bill 444, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 203**

AN ACT

RELATING TO HEALTH; AMENDING THE NEW MEXICO TELEHEALTH ACT;  
EXPANDING THE TYPES OF PROVIDERS AND SITES FOR TELEHEALTH  
SERVICES.

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

## **Chapter 203 Section 1 Laws 2007**

Section 1. Section 24-25-1 NMSA 1978 (being Laws 2004, Chapter 48, Section 1) is amended to read:

"24-25-1. SHORT TITLE.-- Chapter 24, Article 25 NMSA 1978 may be cited as the "New Mexico Telehealth Act"."

## **Chapter 203 Section 2 Laws 2007**

Section 2. Section 24-25-2 NMSA 1978 (being Laws 2004, Chapter 48, Section 2) is amended to read:

"24-25-2. FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) lack of primary care, specialty providers and transportation continue to be significant barriers to access to health services in medically underserved rural areas;

(2) there are parts of this state where it is difficult to attract and retain health professionals, as well as to support local health facilities in providing a continuum of health care;

(3) many health care providers in medically underserved areas are isolated from mentors and colleagues and from the information resources necessary to support them personally and professionally;

(4) using information technology to deliver medical services and information from one location to another is part of a multifaceted approach to address the problems of provider distribution and the development of health systems in medically underserved areas by improving communication capabilities and providing convenient access to up-to-date information, consultations and other forms of support;

(5) the use of telecommunications to deliver health services has the potential to reduce costs, improve quality, change the conditions of practice and improve access to health care in rural, medically underserved areas; and

(6) telehealth will assist in maintaining or improving the physical and economic health of medically underserved communities by keeping the source of general health, behavioral health and oral health care in the local area, strengthening the health infrastructure and preserving health-care-related jobs.

B. The purpose of the New Mexico Telehealth Act is to provide a framework for health care providers to follow in providing telehealth services to New Mexico citizens in a manner that provides efficient and effective access to quality health services.

Telehealth services include consultations, direct patient care and education for health care professionals, support personnel, students, families, patients and other consumers of health care services."

## **Chapter 203 Section 3 Laws 2007**

Section 3. Section 24-25-3 NMSA 1978 (being Laws 2004, Chapter 48, Section 3) is amended to read:

"24-25-3. DEFINITIONS.--As used in the New Mexico Telehealth Act:

A. "health care provider" means a person licensed to provide health care to patients in New Mexico, including:

- (1) an optometrist;
- (2) a chiropractic physician;
- (3) a dentist;
- (4) a physician;
- (5) a podiatrist;
- (6) an osteopathic physician;
- (7) a physician assistant;
- (8) a certified nurse practitioner;
- (9) a physical therapist;
- (10) an occupational therapist;
- (11) a speech-language pathologist;
- (12) a doctor of oriental medicine;
- (13) a nutritionist;
- (14) a psychologist;
- (15) a certified nurse-midwife;
- (16) a clinical nurse specialist;

- (17) a registered nurse;
- (18) a dental hygienist;
- (19) a pharmacist;
- (20) a licensed independent social worker;
- (21) a licensed counselor;
- (22) a community health representative; or
- (23) a licensed athletic trainer;

B. "originating site" means a place where a patient may receive health care via telehealth. An originating site may include:

- (1) a licensed inpatient center;
- (2) an ambulatory surgical or treatment center;
- (3) a skilled nursing center;
- (4) a residential treatment center;
- (5) a home health agency;
- (6) a diagnostic laboratory or imaging center;
- (7) an assisted living center;
- (8) a school-based health program;
- (9) a mobile clinic;
- (10) a mental health clinic;
- (11) a rehabilitation or other therapeutic health setting;
- (12) the patient's residence;
- (13) a federally qualified health center; or
- (14) a community health center; and

C. "telehealth" means the use of electronic information, imaging and communication technologies, including interactive audio, video, data communications as well as store-and-forward technologies, to provide and support health care delivery, diagnosis, consultation, treatment, transfer of medical data and education."

## **Chapter 203 Section 4 Laws 2007**

Section 4. Section 24-25-5 NMSA 1978 (being Laws 2004, Chapter 48, Section 5) is amended to read:

"24-25-5. SCOPE OF ACT.--

A. The New Mexico Telehealth Act does not alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

B. Because the use of telehealth improves access to quality health care and will generally benefit the citizens of New Mexico, health insurers, health maintenance organizations, managed care organizations and third-party payors offering services to the citizens of New Mexico are encouraged to use and provide coverage for telehealth within the scope of their plans or policies. The state's medical assistance program is also encouraged to include telehealth within the scope of its plan or policy."

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Senate Bill 456, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 204**

AN ACT

RELATING TO TAXATION; AMENDING PROVISIONS OF THE RENEWABLE ENERGY PRODUCTION TAX CREDIT IN THE CORPORATE INCOME AND FRANCHISE TAX ACT; PROVIDING FOR A RENEWABLE ENERGY PRODUCTION TAX CREDIT IN THE INCOME TAX ACT; PROVIDING A SUSTAINABLE BUILDING TAX CREDIT IN THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT; PROVIDING A CREDIT IN THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT FOR AGRICULTURAL WATER CONSERVATION EXPENSES; PROVIDING TAX INCENTIVES FOR PRODUCTION AND SALE OF BIODIESEL FUEL; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS FROM THE SALE AND INSTALLATION OF CERTAIN SOLAR ENERGY SYSTEMS; ENACTING THE ALTERNATIVE ENERGY PRODUCT MANUFACTURERS TAX CREDIT ACT; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005 BY REPEALING LAWS 2005,

CHAPTER 104, SECTION 7; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

## **Chapter 204 Section 1 Laws 2007**

Section 1. Section 7-2A-19 NMSA 1978 (being Laws 2002, Chapter 59, Section 1, as amended by Laws 2005, Chapter 104, Section 7 and by Laws 2005, Chapter 181, Section 1) is amended to read:

"7-2A-19. RENEWABLE ENERGY PRODUCTION TAX CREDIT--LIMITATIONS--DEFINITIONS--CLAIMING THE CREDIT.--

A. The tax credit provided in this section may be referred to as the "renewable energy production tax credit". The tax credit provided in this section may not be claimed with respect to the same electricity production for which the renewable energy production tax credit provided in the Income Tax Act has been claimed.

B. A person is eligible for the renewable energy production tax credit if the person:

(1) holds title to a qualified energy generator that first produced electricity on or before January 1, 2018; or

(2) leases property upon which a qualified energy generator operates from a county or municipality under authority of an industrial revenue bond and if the qualified energy generator first produced electricity on or before January 1, 2018.

C. The amount of the tax credit shall equal one cent (\$.01) per kilowatt-hour of the first four hundred thousand megawatt-hours of electricity produced by the qualified energy generator in the taxable year using a wind-or biomass-derived qualified energy resource, provided that the total amount of tax credits claimed by all taxpayers for a single qualified energy generator in a taxable year using a wind- or biomass-derived qualified energy resource shall not exceed one cent (\$.01) per kilowatt-hour of the first four hundred thousand megawatt-hours of electricity produced by the qualified energy generator.

D. The amount of the tax credit for electricity produced by a qualified energy generator in the taxable year using a solar-light-derived or solar-heat-derived qualified energy resource shall be at the amounts specified in Paragraphs (1) through (10) of this subsection; provided that the total amount of tax credits claimed for a taxable year by all taxpayers for a single qualified energy generator using a solar-light-derived or solar-heat-derived qualified energy resource shall be limited to the first two hundred thousand megawatt-hours of electricity produced by the qualified energy generator in the taxable year:

(1) one and one-half cents (\$.015) per kilowatt-hour in the first taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(2) two cents (\$.02) per kilowatt-hour in the second taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(3) two and one-half cents (\$.025) per kilowatt-hour in the third taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(4) three cents (\$.03) per kilowatt-hour in the fourth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(5) three and one-half cents (\$.035) per kilowatt-hour in the fifth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(6) four cents (\$.04) per kilowatt-hour in the sixth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(7) three and one-half cents (\$.035) per kilowatt-hour in the seventh taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(8) three cents (\$.03) per kilowatt-hour in the eighth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(9) two and one-half cents (\$.025) per kilowatt-hour in the ninth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource; and

(10) two cents (\$.02) per kilowatt-hour in the tenth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource.

E. A taxpayer eligible for a renewable energy production tax credit pursuant to Subsection B of this section shall be eligible for the renewable energy production tax credit for ten consecutive years, beginning on the date the qualified energy generator begins producing electricity.

F. As used in this section:

(1) "biomass" means organic material that is available on a renewable or recurring basis, including:

(a) forest-related materials, including mill residues, logging residues, forest thinnings, slash, brush, low-commercial value materials or undesirable species, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds and woody material harvested for the purpose of forest fire fuel reduction or forest health and watershed improvement;

(b) agricultural-related materials, including orchard trees, vineyard, grain or crop residues, including straws and stover, aquatic plants and agricultural processed co-products and waste products, including fats, oils, greases, whey and lactose;

(c) animal waste, including manure and slaughterhouse and other processing waste;

(d) solid woody waste materials, including landscape or right-of-way tree trimmings, rangeland maintenance residues, waste pallets, crates and manufacturing, construction and demolition wood wastes, excluding pressure-treated, chemically treated or painted wood wastes and wood contaminated with plastic;

(e) crops and trees planted for the purpose of being used to produce energy;

(f) landfill gas, wastewater treatment gas and biosolids, including organic waste byproducts generated during the wastewater treatment process; and

(g) segregated municipal solid waste, excluding tires and medical and hazardous waste;

(2) "qualified energy generator" means a facility with at least one megawatt generating capacity located in New Mexico that produces electricity using a qualified energy resource and that sells that electricity to an unrelated person; and

(3) "qualified energy resource" means a resource that generates electrical energy by means of a fluidized bed technology or similar low-emissions technology or a zero-emissions generation technology that has substantial long-term production potential and that uses only the following energy sources:

(a) solar light;

(b) solar heat;

(c) wind; or

(d) biomass.

G. A person that holds title to a facility generating electricity from a qualified energy resource or a person that leases such a facility from a county or municipality pursuant to an industrial revenue bond may request certification of eligibility for the renewable energy production tax credit from the energy, minerals and natural resources department, which shall determine if the facility is a qualified energy generator. The energy, minerals and natural resources department may certify the eligibility of an energy generator only if the total amount of electricity that may be produced annually by all qualified energy generators that are certified pursuant to this section and pursuant to the Income Tax Act will not exceed a total of two million megawatt-hours plus an additional five hundred thousand megawatt-hours produced by qualified energy generators using a solar-light-derived or solar-heat-derived qualified energy resource. Applications shall be considered in the order received. The energy, minerals and natural resources department may estimate the annual power-generating potential of a generating facility for the purposes of this section. The energy, minerals and natural resources department shall issue a certificate to the applicant stating whether the facility is an eligible qualified energy generator and the estimated annual production potential of the generating facility, which shall be the limit of that facility's energy production eligible for the tax credit for the taxable year. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection and shall report annually to the appropriate interim legislative committee information that will allow the legislative committee to analyze the effectiveness of the renewable energy production tax credit, including the identity of qualified energy generators, the energy production means used, the amount of energy produced by those qualified energy generators and whether any applications could not be approved due to program limits.

H. A taxpayer may be allocated all or a portion of the right to claim a renewable energy production tax credit without regard to proportional ownership interest if:

(1) the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership;

(2) the business entity:

(a) would qualify for the renewable energy production tax credit pursuant to Paragraph (1) or (2) of Subsection B of this section;

(b) owns an interest in a business entity that is also taxed for federal income tax purposes as a partnership and that would qualify for the renewable energy production tax credit pursuant to Paragraph (1) or (2) of Subsection B of this section; or

(c) owns, through one or more intermediate business entities that are each taxed for federal income tax purposes as a partnership, an interest in the business entity described in Subparagraph (b) of this paragraph;

(3) the taxpayer and all other taxpayers allocated a right to claim the renewable energy production tax credit pursuant to this subsection own collectively at least a five percent interest in a qualified energy generator;

(4) the business entity provides notice of the allocation and the taxpayer's interest to the energy, minerals and natural resources department on forms prescribed by that department; and

(5) the energy, minerals and natural resources department certifies the allocation in writing to the taxpayer.

I. Upon receipt of notice of an allocation of the right to claim all or a portion of the renewable energy production tax credit, the energy, minerals and natural resources department shall promptly certify the allocation in writing to the recipient of the allocation.

J. A taxpayer may claim the renewable energy production tax credit by submitting to the taxation and revenue department the certificate issued by the energy, minerals and natural resources department, pursuant to Subsection G or H of this section, documentation showing the taxpayer's interest in the facility, documentation of the amount of electricity produced by the facility in the taxable year and any other information the taxation and revenue department may require to determine the amount of the tax credit due the taxpayer.

K. If the requirements of this section have been complied with, the department shall approve the renewable energy production tax credit. The credit may be deducted from a taxpayer's New Mexico corporate income tax liability for the taxable year for which the credit is claimed. If the amount of tax credit exceeds the taxpayer's corporate income tax liability for the taxable year:

(1) the excess may be carried forward for a period of five taxable years; or

(2) if the tax credit was issued with respect to a qualified energy generator that first produced electricity using a qualified energy resource on or after October 1, 2007, the excess shall be refunded to the taxpayer.

L. Once a taxpayer has been granted a renewable energy production tax credit for a given facility, that taxpayer shall be allowed to retain the facility's original date of application for tax credits for that facility until either the facility goes out of production for more than six consecutive months in a year or until the facility's ten-year eligibility has expired."

## Chapter 204 Section 2 Laws 2007

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

"RENEWABLE ENERGY PRODUCTION TAX CREDIT.--

A. The tax credit provided in this section may be referred to as the "renewable energy production tax credit". The tax credit provided in this section may not be claimed with respect to the same electricity production for which a tax credit pursuant to Section 7-2A-19 has been claimed.

B. A taxpayer who files an individual New Mexico income tax return and who is not a dependent of another taxpayer is eligible for the renewable energy production tax credit if the taxpayer:

(1) holds title to a qualified energy generator that first produced electricity on or before January 1, 2018; or

(2) leases property upon which a qualified energy generator operates from a county or municipality under authority of an industrial revenue bond and if the qualified energy generator first produced electricity on or before January 1, 2018.

C. The amount of the tax credit shall equal one cent (\$.01) per kilowatt-hour of the first four hundred thousand megawatt-hours of electricity produced by the qualified energy generator in the taxable year using a wind- or biomass-derived qualified energy resource, provided that the total amount of tax credits claimed by all taxpayers for a single qualified energy generator in a taxable year using a wind- or biomass-derived qualified energy resource shall not exceed one cent (\$.01) per kilowatt-hour of the first four hundred thousand megawatt-hours of electricity produced by the qualified energy generator.

D. The amount of the tax credit for electricity produced by a qualified energy generator in the taxable year using a solar-light-derived or solar-heat-derived qualified energy resource shall be at the amounts specified in Paragraphs (1) through (10) of this subsection; provided that the total amount of tax credits claimed for a taxable year by all taxpayers for a single qualified energy generator using a solar-light-derived or solar-heat-derived qualified energy resource shall be limited to the first two hundred thousand megawatt-hours of electricity produced by the qualified energy generator in the taxable year:

(1) one and one-half cents (\$.015) per kilowatt-hour in the first taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(2) two cents (\$.02) per kilowatt-hour in the second taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(3) two and one-half cents (\$.025) per kilowatt-hour in the third taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(4) three cents (\$.03) per kilowatt-hour in the fourth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(5) three and one-half cents (\$.035) per kilowatt-hour in the fifth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(6) four cents (\$.04) per kilowatt-hour in the sixth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(7) three and one-half cents (\$.035) per kilowatt-hour in the seventh taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(8) three cents (\$.03) per kilowatt-hour in the eighth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource;

(9) two and one-half cents (\$.025) per kilowatt-hour in the ninth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource; and

(10) two cents (\$.02) per kilowatt-hour in the tenth taxable year in which the qualified energy generator produces electricity using a solar-light-derived or solar-heat-derived qualified energy resource.

E. A taxpayer eligible for a renewable energy production tax credit pursuant to Subsection B of this section shall be eligible for the renewable energy production tax credit for ten consecutive years, beginning on the date the qualified energy generator begins producing electricity.

F. As used in this section:

(1) "biomass" means organic material that is available on a renewable or recurring basis, including:

(a) forest-related materials, including mill residues, logging residues, forest thinnings, slash, brush, low-commercial-value materials or undesirable species, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds and woody material harvested for the purpose of forest fire fuel reduction or forest health and watershed improvement;

(b) agricultural-related materials, including orchard trees, vineyard, grain or crop residues, including straws and stover, aquatic plants and agricultural processed co-products and waste products, including fats, oils, greases, whey and lactose;

(c) animal waste, including manure and slaughterhouse and other processing waste;

(d) solid woody waste materials, including landscape or right-of-way tree trimmings, rangeland maintenance residues, waste pallets, crates and manufacturing, construction and demolition wood wastes, excluding pressure-treated, chemically treated or painted wood wastes and wood contaminated with plastic;

(e) crops and trees planted for the purpose of being used to produce energy;

(f) landfill gas, wastewater treatment gas and biosolids, including organic waste byproducts generated during the wastewater treatment process; and

(g) segregated municipal solid waste, excluding tires and medical and hazardous waste;

(2) "qualified energy generator" means a facility with at least one megawatt generating capacity located in New Mexico that produces electricity using a qualified energy resource and that sells that electricity to an unrelated person; and

(3) "qualified energy resource" means a resource that generates electrical energy by means of a fluidized bed technology or similar low-emissions technology or a zero-emissions generation technology that has substantial long-term production potential and that uses only the following energy sources:

(a) solar light;

(b) solar heat;

(c) wind; or

(d) biomass.

G. A person that holds title to a facility generating electricity from a qualified energy resource or a person that leases such a facility from a county or municipality pursuant to an industrial revenue bond may request certification of eligibility for the renewable energy production tax credit from the energy, minerals and natural resources department, which shall determine if the facility is a qualified energy generator. The energy, minerals and natural resources department may certify the eligibility of an energy generator only if the total amount of electricity that may be produced annually by all qualified energy generators that are certified pursuant to this section and pursuant to Section 7-2A-19 NMSA 1978 will not exceed a total of two million megawatt-hours plus an additional five hundred thousand megawatt-hours produced by qualified energy generators using a solar-light-derived or solar-heat-derived qualified energy resource. Applications shall be considered in the order received. The energy, minerals and natural resources department may estimate the annual power-generating potential of a generating facility for the purposes of this section. The energy, minerals and natural resources department shall issue a certificate to the applicant stating whether the facility is an eligible qualified energy generator and the estimated annual production potential of the generating facility, which shall be the limit of that facility's energy production eligible for the tax credit for the taxable year. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection and shall report annually to the appropriate interim legislative committee information that will allow the legislative committee to analyze the effectiveness of the renewable energy production tax credit, including the identity of qualified energy generators, the energy production means used, the amount of energy produced by those qualified energy generators and whether any applications could not be approved due to program limits.

H. A taxpayer may be allocated all or a portion of the right to claim a renewable energy production tax credit without regard to proportional ownership interest if:

(1) the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership;

(2) the business entity:

(a) would qualify for the renewable energy production tax credit pursuant to Paragraph (1) or (2) of Subsection B of this section;

(b) owns an interest in a business entity that is also taxed for federal income tax purposes as a partnership and that would qualify for the renewable energy production tax credit pursuant to Paragraph (1) or (2) of Subsection B of this section; or

(c) owns, through one or more intermediate business entities that are each taxed for federal income tax purposes as a partnership, an interest in the business entity described in Subparagraph (b) of this paragraph;

(3) the taxpayer and all other taxpayers allocated a right to claim the renewable energy production tax credit pursuant to this subsection own collectively at least a five percent interest in a qualified energy generator;

(4) the business entity provides notice of the allocation and the taxpayer's interest to the energy, minerals and natural resources department on forms prescribed by that department; and

(5) the energy, minerals and natural resources department certifies the allocation in writing to the taxpayer.

I. Upon receipt of notice of an allocation of the right to claim all or a portion of the renewable energy production tax credit, the energy, minerals and natural resources department shall promptly certify the allocation in writing to the recipient of the allocation.

J. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the credit that would have been allowed on a joint return.

K. A taxpayer may claim the renewable energy production tax credit by submitting to the taxation and revenue department the certificate issued by the energy, minerals and natural resources department, pursuant to Subsection G or H of this section, documentation showing the taxpayer's interest in the facility, documentation of the amount of electricity produced by the facility in the taxable year and any other information the taxation and revenue department may require to determine the amount of the tax credit due the taxpayer.

L. If the requirements of this section have been complied with, the department shall approve the renewable energy production tax credit. The credit may be deducted from a taxpayer's New Mexico income tax liability for the taxable year for which the credit is claimed. If the amount of tax credit exceeds the taxpayer's income tax liability for the taxable year:

(1) the excess may be carried forward for a period of five taxable years; or

(2) if the tax credit was issued with respect to a qualified energy generator that first produced electricity using a qualified energy resource on or after October 1, 2007, the excess shall be refunded to the taxpayer.

M. Once a taxpayer has been granted a renewable energy production tax credit for a given facility, that taxpayer shall be allowed to retain the facility's original date of application for tax credits for that facility until either the facility goes out of production for more than six consecutive months in a year or until the facility's ten-year eligibility has expired."

## Chapter 204 Section 3 Laws 2007

Section 3. A new section of the Income Tax Act is enacted to read:

### "SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "sustainable building tax credit". The sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building or the renovation of an existing building in New Mexico into a sustainable building. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the sustainable building tax credit provided in the Corporate Income and Franchise Tax Act has been claimed.

B. A taxpayer who files an income tax return is eligible to apply for a sustainable building tax credit if the taxpayer is:

(1) the owner of the building at the time the certification level for the building in the LEED green building rating system or the build green New Mexico rating system is awarded; or

(2) the subsequent purchaser of a sustainable building with respect to which no tax credit has been previously claimed, if the certification level for the building in the LEED green building rating system or the build green New Mexico rating system is awarded on or after January 1, 2007.

C. The amount of the sustainable building tax credit that may be claimed with respect to a sustainable commercial building shall be calculated based on the certification level the building has achieved in the LEED green building rating system and the amount of qualified occupied square footage in the building, as indicated on the following chart:

LEED Rating Level	Qualified Occupied Square Foot	Tax Credit per Square Footage
LEED-NC Silver	First 10,000	\$3.50
	Next 40,000	\$1.75
	Over 50,000	
	up to 500,000	\$ .70

LEED-NC Gold	First 10,000	\$4.75
	Next 40,000	\$2.00
	Over 50,000	
	up to 500,000	\$1.00

LEED-NC Platinum	First 10,000	\$6.25
	Next 40,000	\$3.25
	Over 50,000	
	up to 500,000	\$2.00

LEED-EB or CS Silver	First 10,000	\$2.50
	Next 40,000	\$1.25
	Over 50,000	
	up to 500,000	\$ .50

LEED-EB or CS Gold	First 10,000	\$3.35
	Next 40,000	\$1.40
	Over 50,000	
	up to 500,000	\$ .70

LEED-EB or CS

Platinum	First 10,000	\$4.40
	Next 40,000	\$2.30
	Over 50,000	
	up to 500,000	\$1.40

LEED-CI Silver	First 10,000	\$1.40
	Next 40,000	\$ .70

	Over 50,000	
	up to 500,000	\$ .30
LEED-CI Gold	First 10,000	\$1.90
	Next 40,000	\$ .80
	Over 50,000	
	up to 500,000	\$ .40
LEED-CI Platinum	First 10,000	\$2.50
	Next 40,000	\$1.30
	Over 50,000	
	up to 500,000	\$ .80.

D. The amount of the sustainable building tax credit that may be claimed with respect to a sustainable residential building shall be calculated based on the certification level the building has achieved in the LEED green building rating system or the build green New Mexico rating system and the amount of qualified occupied square footage, as indicated on the following chart:

Rating System/Level	Qualified Occupied Square Foot Footage	Tax Credit
Build Green NM Gold	First 2,000	\$4.50
	Next 1,000	\$2.00
LEED-H Silver	First 2,000	\$5.00
	Next 1,000	\$2.50
LEED-H Gold	First 2,000	\$6.85
	Next 1,000	\$3.40

LEED-H Platinum	First 2,000	\$9.00
	Next 1,000	\$4.45

#### EPA ENERGY STAR

Manufactured Housing	Up to 3,000	\$3.00.
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E. A taxpayer may apply for certification of eligibility for the sustainable building tax credit from the energy, minerals and natural resources department after the construction or renovation of the sustainable building is complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the taxpayer meets the requirements of Subsection B of this section and that the building with respect to which the tax credit application is made meets the requirements of this section as a sustainable residential building or a sustainable commercial building, it may issue a certificate of eligibility to the taxpayer, subject to the limitation in Subsection F of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and a calculation of the maximum amount of sustainable building tax credit for which the taxpayer would be eligible. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection.

F. The energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of sustainable building tax credits represented by certificates of eligibility issued by the energy, minerals and natural resources department pursuant to this section and pursuant to the Corporate Income and Franchise Tax Act shall not exceed in any calendar year an aggregate amount of five million dollars (\$5,000,000) with respect to sustainable commercial buildings and an aggregate amount of five million dollars (\$5,000,000) with respect to sustainable residential buildings; provided that no more than one million two hundred fifty thousand dollars (\$1,250,000) of the aggregate amount with respect to sustainable residential buildings shall be for manufactured housing.

G. Installation of a solar thermal system or a photovoltaic system eligible for the solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be used as a component of qualification for the rating system certification level used in determining eligibility for the sustainable building tax credit, unless a solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 has not been claimed with respect to that system and the taxpayer certifies that such a tax credit will not be claimed with respect to that system.

H. To be eligible for the sustainable building tax credit, the taxpayer must provide to the taxation and revenue department a certificate of eligibility issued by the energy, minerals and natural resources department pursuant to the requirements of Subsection

E of this section and any other information the taxation and revenue department may require to determine the amount of the tax credit due the taxpayer.

I. If the requirements of this section have been complied with, the department shall issue to the applicant a document granting a sustainable building tax credit. The document shall be numbered for identification and declare its date of issuance and the amount of the tax credit allowed pursuant to this section. The document may be sold, exchanged or otherwise transferred. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

J. Except as provided in Subsection K of this section, the sustainable building tax credit represented by the document issued pursuant to Subsection I of this section shall be applied against the taxpayer's income tax liability for the taxable year in which the credit is approved and the three subsequent taxable years, in increments of twenty-five percent of the total credit amount in each of the four taxable years. If the amount of the credit available in a taxable year exceeds the taxpayer's income tax liability for that taxable year, the excess may be carried forward for up to seven years.

K. If the total amount of a sustainable building tax credit approved by the department is less than twenty-five thousand dollars (\$25,000), the entire amount of the credit may be applied against the taxpayer's income tax liability for the taxable year in which the credit is approved. If the amount of the credit exceeds the taxpayer's income tax liability for that taxable year, the excess may be carried forward for up to seven years.

L. A taxpayer who otherwise qualifies and claims a sustainable building tax credit with respect to a sustainable building owned by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to that taxpayer's interest in the partnership or association. The total credit claimed in the aggregate by all members of the partnership or association with respect to the sustainable building shall not exceed the amount of the credit that could have been claimed by a sole owner of the property.

M. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the credit that would have been allowed on a joint return.

N. For the purposes of this section:

(1) "build green New Mexico rating system" means the certification standards adopted by the homebuilders association of central New Mexico;

(2) "LEED-CI" means the LEED rating system for commercial interiors;

(3) "LEED-CS" means the LEED rating system for the core and shell of buildings;

(4) "LEED-EB" means the LEED rating system for existing buildings;

(5) "LEED gold" means the rating in compliance with, or exceeding, the second highest rating awarded by the LEED certification process;

(6) "LEED" means the most current leadership in energy and environmental design green building rating system guidelines developed and adopted by the United States green building council;

(7) "LEED-H" means the LEED rating system for homes;

(8) "LEED-NC" means the LEED rating system for new buildings and major renovations;

(9) "LEED platinum" means the rating in compliance with, or exceeding, the highest rating awarded by the LEED certification process;

(10) "LEED silver" means the rating in compliance with, or exceeding, the third highest rating awarded by the LEED certification process;

(11) "qualified occupied square footage" means the occupied spaces of the building as determined by:

(a) the United States green building council for those buildings obtaining LEED certification;

(b) the administrators of the build green New Mexico rating system for those homes obtaining build green New Mexico certification; and

(c) the United States environmental protection agency for ENERGY STAR-certified manufactured homes;

(12) "sustainable building" means either a sustainable commercial building or a sustainable residential building;

(13) "sustainable commercial building" means a building that has been registered and certified under the LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system and that:

(a) is certified by the United States green building council at LEED-Silver or higher;

(b) achieves any prerequisite for and at least one point related to commissioning under LEED "energy and atmosphere", if included in the applicable rating system; and

(c) has reduced energy consumption, as follows: 1) through 2011, a fifty percent energy reduction will be required based on the national average for that building type as published by the United States department of energy; and beginning January 1, 2012, a sixty percent energy reduction will be required based on the national average for that building type as published by the United States department of energy; and 2) is substantiated by the United States environmental protection agency target finder energy performance results form, dated no sooner than the schematic design phase of development; and

(14) "sustainable residential building" means:

(a) a building used as a single-family residence as registered and certified under the build green New Mexico or LEED-H rating systems that: 1) is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as gold or higher; and 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network;

(b) a building used as multi-family dwelling units, as registered and certified under the LEED-H rating system that: 1) is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as gold or higher; and 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network; or

(c) manufactured housing as defined by the United States department of housing and urban development that is ENERGY STAR-qualified by the United States environmental protection agency."

## **Chapter 204 Section 4 Laws 2007**

Section 4. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "sustainable building tax credit". The sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building or the renovation of an existing building in New Mexico into a sustainable building. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the sustainable building tax credit provided in the Income Tax Act has been claimed.

B. A taxpayer that files a corporate income tax return is eligible to apply for a sustainable building tax credit if the taxpayer is:

(1) the owner of the building at the time the certification level for the building in the LEED green building rating system or the build green New Mexico rating system is awarded; or

(2) the subsequent purchaser of a sustainable building with respect to which no tax credit has been previously claimed, if the certification level for the building in the LEED green building rating system or the build green New Mexico rating system is awarded on or after

January 1, 2007.

C. The amount of the sustainable building tax credit that may be claimed with respect to a sustainable commercial building shall be calculated based on the certification level the building has achieved in the LEED green building rating system and the amount of qualified occupied square footage in the building, as indicated on the following chart:

LEED Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-NC Silver	First 10,000	\$3.50
	Next 40,000	\$1.75
	Over 50,000 up to 500,000	\$0.70
LEED-NC Gold	First 10,000	\$4.75
	Next 40,000	\$2.00
	Over 50,000 up to 500,000	\$1.00
LEED-NC Platinum	First 10,000	\$6.25
	Next 40,000	\$3.25

	Over 50,000	
	up to 500,000	\$2.00
LEED-EB or		
CS Silver	First 10,000	\$2.50
	Next 40,000	\$1.25
	Over 50,000	
	up to 500,000	\$ .50
LEED-EB or		
CS Gold	First 10,000	\$3.35
	Next 40,000	\$1.40
	Over 50,000	
	up to 500,000	\$ .70
LEED-EB or CS		
Platinum	First 10,000	\$4.40
	Next 40,000	\$2.30
	Over 50,000	
	up to 500,000	\$1.40
LEED-CI Silver	First 10,000	\$1.40
	Next 40,000	\$ .70
	Over 50,000	
	up to 500,000	\$ .30
LEED-CI Gold	First 10,000	\$1.90
	Next 40,000	\$ .80

	Over 50,000	
	up to 500,000	\$ .40
LEED-CI Platinum	First 10,000	\$2.50
	Next 40,000	\$1.30
	Over 50,000	
	up to 500,000	\$ .80.

D. The amount of the sustainable building tax credit that may be claimed with respect to a sustainable residential building shall be calculated based on the certification level the building has achieved in the LEED green building rating system or the build green New Mexico rating system and the amount of qualified occupied square footage, as indicated on the following chart:

Rating System/Level	Qualified	Tax Credit
	Occupied	per Square
	Square	Foot
	Footage	
Build Green NM Gold	First 2,000	\$4.50
	Next 1,000	\$2.00
LEED-H Silver	First 2,000	\$5.00
	Next 1,000	\$2.50
LEED-H Gold	First 2,000	\$6.85
	Next 1,000	\$3.40
LEED-H Platinum	First 2,000	\$9.00
	Next 1,000	\$4.45
EPA ENERGY STAR		
Manufactured Housing	Up to 3,000	\$3.00.

E. A taxpayer may apply for certification of eligibility for the sustainable building tax credit from the energy, minerals and natural resources department after the construction or renovation of the sustainable building is complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the taxpayer meets the requirements of Subsection B of this section and that the building with respect to which the tax credit application is made meets the requirements of this section as a sustainable residential building or a sustainable commercial building, it may issue a certificate of eligibility to the taxpayer, subject to the limitation in Subsection F of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and a calculation of the maximum amount of sustainable building tax credit for which the taxpayer would be eligible. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection.

F. The energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of sustainable building tax credits represented by certificates of eligibility issued by the energy, minerals and natural resources department pursuant to this section and pursuant to the Income Tax Act shall not exceed in any calendar year an aggregate amount of five million dollars (\$5,000,000) with respect to sustainable commercial buildings and an aggregate amount of five million dollars (\$5,000,000) with respect to sustainable residential buildings; provided that no more than one million two hundred fifty thousand dollars (\$1,250,000) of the aggregate amount with respect to sustainable residential buildings shall be for manufactured housing.

G. Installation of a solar thermal system or a photovoltaic system eligible for the solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be used as a component of qualification for the rating system certification level used in determining eligibility for the sustainable building tax credit, unless a solar market development tax credit pursuant to Section 7-2-18.14 NMSA 1978 has not been claimed with respect to that system and the taxpayer certifies that such a tax credit will not be claimed with respect to that system.

H. To be eligible for the sustainable building tax credit, the taxpayer must provide to the taxation and revenue department a certificate of eligibility issued by the energy, minerals and natural resources department pursuant to the requirements of Subsection E of this section and any other information the taxation and revenue department may require to determine the amount of the tax credit due the taxpayer.

I. If the requirements of this section have been complied with, the department shall issue to the applicant a document granting a sustainable building tax credit. The document shall be numbered for identification and declare its date of issuance and the amount of the tax credit allowed pursuant to this section. The document may be sold, exchanged or otherwise transferred. The parties to such a transaction shall notify the

department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

J. Except as provided in Subsection K of this section, the sustainable building tax credit represented by the document issued pursuant to Subsection I of this section shall be applied against the taxpayer's corporate income tax liability for the taxable year in which the credit is approved and the three subsequent taxable years, in increments of twenty-five percent of the total credit amount in each of the four taxable years. If the amount of the credit available in a taxable year exceeds the taxpayer's corporate income tax liability for that taxable year, the excess may be carried forward for up to seven years.

K. If the total amount of a sustainable building tax credit approved by the department is less than twenty-five thousand dollars (\$25,000), the entire amount of the credit may be applied against the taxpayer's corporate income tax liability for the taxable year in which the credit is approved. If the amount of the credit exceeds the taxpayer's corporate income tax liability for that taxable year, the excess may be carried forward for up to seven years.

L. A taxpayer that otherwise qualifies and claims a sustainable building tax credit with respect to a sustainable building owned by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to that taxpayer's interest in the partnership or association. The total credit claimed in the aggregate by all members of the partnership or association with respect to the sustainable building shall not exceed the amount of the credit that could have been claimed by a sole owner of the property.

M. For the purposes of this section:

(1) "build green New Mexico rating system" means the certification standards adopted by the homebuilders association of central New Mexico;

(2) "LEED-CI" means the LEED rating system for commercial interiors;

(3) "LEED-CS" means the LEED rating system for the core and shell of buildings;

(4) "LEED-EB" means the LEED rating system for existing buildings;

(5) "LEED gold" means the rating in compliance with, or exceeding, the second highest rating awarded by the LEED certification process;

(6) "LEED" means the most current leadership in energy and environmental design green building rating system guidelines developed and adopted by the United States green building council;

(7) "LEED-H" means the LEED rating system for homes;

(8) "LEED-NC" means the LEED rating system for new buildings and major renovations;

(9) "LEED platinum" means the rating in compliance with, or exceeding, the highest rating awarded by the LEED certification process;

(10) "LEED silver" means the rating in compliance with, or exceeding, the third highest rating awarded by the LEED certification process;

(11) "qualified occupied square footage" means the occupied spaces of the building as determined by:

(a) the United States green building council for those buildings obtaining LEED certification;

(b) the administrators of the build green New Mexico rating system for those homes obtaining build green New Mexico certification; and

(c) the United States environmental protection agency for ENERGY STAR-certified manufactured homes;

(12) "sustainable building" means either a sustainable commercial building or a sustainable residential building;

(13) "sustainable commercial building" means a building that has been registered and certified under the LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system and that:

(a) is certified by the United States green building council at LEED-Silver or higher;

(b) achieves any prerequisite for and at least one point related to commissioning under LEED "energy and atmosphere", if included in the applicable rating system; and

(c) has reduced energy consumption, as follows: 1) through 2011, a fifty percent energy reduction will be required based on the national average for that building type as published by the United States department of energy; and beginning January 1, 2012, a sixty percent energy reduction will be required based on the national average for that building type as published by the United States department of energy; and 2) is substantiated by the United States environmental protection agency target finder energy performance results form, dated no sooner than the schematic design phase of development; and

(14) "sustainable residential building" means:

(a) a building used as a single-family residence as registered and certified under the build green New Mexico or LEED-H rating systems that: 1) is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as gold or higher; and 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network;

(b) a building used as multi-family dwelling units, as registered and certified under the LEED-H rating system that: 1) is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as gold or higher; and 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network; or

(c) manufactured housing as defined by the United States department of housing and urban development that is ENERGY STAR-qualified by the United States environmental protection agency."

## **Chapter 204 Section 5 Laws 2007**

Section 5. A new section of the Income Tax Act is enacted to read:

"TAX CREDIT--AGRICULTURAL WATER CONSERVATION EXPENSES.--

A. A taxpayer may claim a credit against the taxpayer's income tax liability for expenses incurred by the taxpayer for eligible improvements in irrigation systems or water management methods. The credit may be claimed for the taxable year in which the expenses are incurred if the taxpayer:

(1) in that year, owned or leased a water right appurtenant to the land on which an eligible improvement was made;

(2) files an individual New Mexico income tax return for that year;

(3) in that year, is not a dependent of another individual; and

(4) does not take a tax credit for the same expense on any corporate tax return filed by the taxpayer.

B. The credit provided in this section shall be in the following amounts, not to exceed a maximum annual credit of ten thousand dollars (\$10,000):

(1) for expenses incurred from January 1, 2008 until December 31, 2008, an amount equal to thirty-five percent of the incurred expenses; and

(2) for expenses incurred on or after January 1, 2009, an amount equal to fifty percent of the incurred expenses.

C. As used in this section, "eligible improvement in irrigation systems or water management methods" means an improvement that is:

(1) made on or after January 1, 2008;

(2) consistent and complies with a water conservation plan approved by the local soil and water conservation district in which the improvement is located; and

(3) primarily designed to substantially conserve water on land in New Mexico that is owned or leased by the taxpayer and used by the taxpayer or the taxpayer's lessee to:

(a) produce agricultural products;

(b) harvest or grow trees; or

(c) sustain livestock.

D. Taxpayers who are considered for federal income tax purposes as co-owners of the land on which an eligible improvement in irrigation systems or water management methods is made may claim the pro rata share of the credit allowed pursuant to this section based on the co-owner's ownership interest. The total of the credits allowed all the taxpayers considered co-owners may not exceed the amount that would have been allowed a sole owner of the land.

E. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the credit that would have been allowed on a joint return.

F. If the allowable tax credit in a taxable year exceeds the income taxes otherwise due from a taxpayer pursuant to the Income Tax Act, or if there are no income taxes due from the taxpayer, the taxpayer may carry forward the amount of the credit not used in that year to offset the taxpayer's liability for income taxes pursuant to the Income Tax Act for not more than five consecutive taxable years.

G. The New Mexico department of agriculture, with the advice of the soil and water conservation commission, and with information provided by the state engineer, shall promulgate rules to implement this section, and those rules shall include detailed guidelines to assist the department in determining whether improvements in irrigation systems or water management methods qualify for the credit available under this section.

H. A taxpayer claiming the credit shall provide documentary evidence of the amount of water conserved during the period for which the credit is claimed if requested by the department.

I. Water conserved due to improvements in irrigation systems or water management methods and for which a credit is claimed shall not be subject to abandonment or forfeiture, nor shall the conserved water be put to consumptive beneficial use.

J. As used in this section, "taxpayer" may include a partnership, limited liability corporation or other form of pass-through entity, which may pass the credit provided in this section through to its owners in proportion to their share of ownership."

## **Chapter 204 Section 6 Laws 2007**

Section 6. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

### **"TAX CREDIT--AGRICULTURAL WATER CONSERVATION EXPENSES.--**

A. A taxpayer may claim a credit against the taxpayer's corporate income tax liability for expenses incurred by the taxpayer for eligible improvements in irrigation systems or water management methods. The credit may be claimed for the taxable year in which the expenses are incurred if the taxpayer:

(1) in that year, owned or leased a water right appurtenant to the land on which an eligible improvement was made; and

(2) files a New Mexico corporate income tax return for that year.

B. The credit provided in this section shall be in the following amounts, not to exceed a maximum annual credit of ten thousand dollars (\$10,000):

(1) for expenses incurred from January 1, 2008 until December 31, 2008, an amount equal to thirty-five percent of the incurred expenses; and

(2) for expenses incurred on or after January 1, 2009, an amount equal to fifty percent of the incurred expenses.

C. As used in this section, "eligible improvement in irrigation systems or water management methods" means an improvement that is:

(1) made on or after January 1, 2008;

(2) consistent and complies with a water conservation plan approved by the local soil and water conservation district in which the improvement is located; and

(3) primarily designed to substantially conserve water on land in New Mexico that is owned or leased by the taxpayer and used by the taxpayer or the taxpayer's lessee to:

- (a) produce agricultural products;
- (b) harvest or grow trees; or
- (c) sustain livestock.

D. Taxpayers that are considered for federal income tax purposes as co-owners of the land, or co-owners of a pass-through entity that owns the land, on which an eligible improvement in irrigation systems or water management methods is made may claim the pro rata share of the credit allowed pursuant to this section based on the co-owner's ownership interest. The total of the credits allowed all the taxpayers considered co-owners may not exceed the amount that would have been allowed a sole owner of the land.

E. If the allowable tax credit in a taxable year exceeds the corporate income taxes otherwise due from a taxpayer pursuant to the Corporate Income and Franchise Tax Act, or if there are no taxes due pursuant to the Corporate Income and Franchise Tax Act, the taxpayer may carry forward the amount of the credit not used in that year to offset the taxpayer's liability for corporate income taxes pursuant to the Corporate Income and Franchise Tax Act for not more than five consecutive tax years.

F. The New Mexico department of agriculture, with the advice of the soil and water conservation commission and with information provided by the state engineer, shall promulgate rules to implement this section, including detailed guidelines to assist the department in determining whether improvements in irrigation systems or water management methods qualify for the credit available under this section.

G. A taxpayer claiming the credit shall provide documentary evidence of the amount of water conserved during the period for which the credit is claimed if requested by the department.

H. Water conserved due to improvements in irrigation systems or water management methods and for which a credit is claimed shall not be subject to abandonment or forfeiture, nor shall the conserved water be put to consumptive beneficial use.

I. As used in this section, "taxpayer" may include a partnership, limited liability corporation or other form of pass-through entity, which may pass the credit provided in this section through to its owners in proportion to their share of ownership."

## **Chapter 204 Section 7 Laws 2007**

Section 7. A new section of the Income Tax Act is enacted to read:

"CREDIT--BLENDED BIODIESEL FUEL.--

A. A taxpayer who is liable for payment of the special fuel excise tax pursuant to Subsections A through D of Section 7-16A-2.1 NMSA 1978 and who files a New Mexico income tax return is eligible to claim a credit against income tax liability for each gallon of blended biodiesel fuel on which that person paid the special fuel excise tax in the taxable year, or would have paid the special fuel excise tax in the taxable year but for the deductions allowed pursuant to Subsections B through F of Section 7-16A-10 NMSA 1978 or the treaty exemption for north Atlantic treaty organization use. The credit shall be in the following amounts for the following periods:

(1) from January 1, 2007 until December 31, 2010, at a rate of three cents (\$.03) per gallon;

(2) from January 1, 2011 until December 31, 2011, at a rate of two cents (\$.02) per gallon; and

(3) from January 1, 2012 until December 31, 2012, at a rate of one cent (\$.01) per gallon.

B. The tax credit provided by this section may not be claimed with respect to the same blended biodiesel fuel for which a credit has been claimed pursuant to the Corporate Income and Franchise Tax Act or for which a credit or refund has been claimed pursuant to Section 7-16A-13 NMSA 1978.

C. A taxpayer who otherwise qualifies for and claims a credit pursuant to this section for blended biodiesel fuel on which special fuel excise tax has been paid by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to the taxpayer's interest in the partnership or business association. The total credit claimed in the aggregate by all members of the partnership or business association shall not exceed the amount of credit allowed pursuant to Subsection A of this section.

D. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the credit that would have been allowed on a joint return.

E. The tax credit provided by this section may only be applied against the income tax liability of the person who paid the special fuel excise tax on the blended biodiesel fuel with respect to which the credit is provided, or who would have paid the special fuel excise tax but for the deductions allowed pursuant to Subsections B through F of Section 7-16A-10 NMSA 1978 or the treaty exemption for north Atlantic treaty organization use. If the credit exceeds the person's income tax liability for the taxable year in which the credit is granted, the credit may be carried forward for five years.

F. A taxpayer claiming a credit pursuant to this section shall provide documentation of eligibility in form and content as determined by the department.

G. For the purposes of this section:

(1) "biodiesel" means renewable, biodegradable, monoalkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets American society for testing and materials D 6751 standard specification for biodiesel B100 blend stock for distillate fuels;

(2) "blended biodiesel fuel" means a diesel fuel that contains at least two percent biodiesel; and

(3) "diesel fuel" means any diesel-engine fuel used for the generation of power to propel a motor vehicle."

## **Chapter 204 Section 8 Laws 2007**

Section 8. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

### **"CREDIT--BLENDED BIODIESEL FUEL.--**

A. A taxpayer that is liable for payment of the special fuel excise tax pursuant to Subsections A through D of Section 7-16A-2.1 NMSA 1978 and that files a New Mexico corporate income tax return is eligible to claim a credit against corporate income tax liability for each gallon of blended biodiesel fuel on which that person paid the special fuel excise tax in the taxable year or who would have paid the special fuel excise tax in the taxable year but for the deductions allowed pursuant to Subsections B through F of Section 7-16A-10 NMSA 1978 or the treaty exemption for north Atlantic treaty organization use. The credit shall be in the following amounts for the following periods:

(1) from January 1, 2007 until December 31, 2010, at a rate of three cents (\$.03) per gallon;

(2) from January 1, 2011 until December 31, 2011, at a rate of two cents (\$.02) per gallon; and

(3) from January 1, 2012 until December 31, 2012, at a rate of one cent (\$.01) per gallon.

B. The tax credit provided by this section may not be claimed with respect to the same blended biodiesel fuel for which a credit has been claimed pursuant to the Income Tax Act or for which a credit or refund has been claimed pursuant to Section 7-16A-13 NMSA 1978.

C. A taxpayer that otherwise qualifies for and claims a credit pursuant to this section for blended biodiesel fuel on which special fuel excise tax has been paid by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to the taxpayer's interest in the partnership or business association. The total credit claimed in the aggregate by all members of the partnership or business association shall not exceed the amount of credit allowed pursuant to Subsection A of this section.

D. The tax credit provided by this section may only be applied against the corporate income tax liability of the person that paid the special fuel excise tax on the blended biodiesel fuel with respect to which the credit is provided or that would have paid the special fuel excise tax but for the deductions allowed pursuant to Subsections B through F of Section 7-16A-10 NMSA 1978 or the treaty exemption for north Atlantic treaty organization use. If the credit exceeds the person's corporate income tax liability for the taxable year in which the credit is granted, the credit may be carried forward for five years.

E. A taxpayer claiming a credit pursuant to this section shall provide documentation of eligibility in form and content as determined by the department.

F. For the purposes of this section:

(1) "biodiesel" means renewable, biodegradable, monoalkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets American society for testing and materials D 6751 standard specification for biodiesel B100 blend stock for distillate fuels;

(2) "blended biodiesel fuel" means a diesel fuel that contains at least two percent biodiesel; and

(3) "diesel fuel" means any diesel-engine fuel used for the generation of power to propel a motor vehicle."

## **Chapter 204 Section 9 Laws 2007**

Section 9. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

**"GROSS RECEIPTS TAX--COMPENSATING TAX--BIODIESEL BLENDING FACILITY TAX CREDIT.--**

A. A taxpayer who is a rack operator as defined in the Special Fuels Supplier Tax Act and who installs biodiesel blending equipment in property owned by the taxpayer for the purpose of establishing or expanding a facility to produce blended biodiesel fuel is eligible to claim a credit against gross receipts tax or compensating tax. The credit shall be an amount equal to thirty percent of the purchase cost of the equipment plus thirty

percent of the cost of installing that equipment. The credit provided by this section may be referred to as the "biodiesel blending facility tax credit".

B. The biodiesel blending facility tax credit shall not exceed fifty thousand dollars (\$50,000) with respect to equipment installed at any one facility.

C. Upon application from a taxpayer wishing to claim the biodiesel blending facility tax credit, the energy, minerals and natural resources department shall determine if the equipment for which the tax credit will be claimed meets the requirements of this section and if purchase and installation costs reported by the taxpayer are legitimate. Upon these determinations being made in favor of the taxpayer, the energy, minerals and natural resources department shall issue a dated certificate of eligibility containing this information and an estimate of the amount of the biodiesel blending facility tax credit for which the taxpayer is eligible.

D. To claim the biodiesel blending facility tax credit, the taxpayer shall provide to the taxation and revenue department the certificate of eligibility from the energy, minerals and natural resources department. Upon receipt of the certificate, the taxation and revenue department shall approve the claim for the credit if the total cumulative amount of approved claims for the credit for all taxpayers for the calendar year does not exceed one million dollars (\$1,000,000). The department shall maintain a record of the cumulative amount of claims for the credit that have been approved and when it determines that this cumulative amount has reached one million dollars (\$1,000,000), it shall cease approving any additional claims for the biodiesel blending facility tax credit.

E. If a taxpayer who has received the biodiesel blending facility tax credit ceases biodiesel blending without completing at least one hundred eighty days of availability of the facility within the first three hundred sixty-five days after the issuance of the certificate of eligibility from the energy, minerals and natural resources department, any amount of approved credit not applied against the taxpayer's gross receipts tax or compensating tax liability shall be extinguished. The taxpayer must amend the taxpayer's return, self-assess the tax owed and return any biodiesel blending facility tax credit received within four hundred twenty-five days of the date of issuance of the certificate of eligibility.

F. The tax credit provided by this section may only be applied against the taxpayer's gross receipts tax liability or compensating tax liability. If the credit exceeds the taxpayer's tax liability in the reporting period for which it is granted, the credit may be carried forward for four years from the date of the certificate of eligibility.

G. For the purposes of this section:

(1) "biodiesel" means renewable, biodegradable, monoalkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets American society for testing and materials D 6751 standard specification for biodiesel B100 blend stock for distillate fuels;

(2) "biodiesel blending equipment" means equipment necessary for the process of blending biodiesel with diesel fuel to produce blended biodiesel fuel;

(3) "blended biodiesel fuel" means a diesel fuel that contains at least two percent biodiesel; and

(4) "diesel fuel" means any diesel-engine fuel used for the generation of power to propel a motor vehicle."

## **Chapter 204 Section 10 Laws 2007**

Section 10. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

### **"DEDUCTION--GROSS RECEIPTS--SOLAR ENERGY SYSTEMS.--**

A. Receipts from the sale and installation of solar energy systems may be deducted from gross receipts.

B. As used in this section, "solar energy system" means an installation that is used to provide space heat, hot water or electricity to the property in which it is installed and is:

(1) an installation that utilizes solar panels that are not also windows, including the solar panels and all equipment necessary for the installation and operation of the solar panels;

(2) a dark-colored water tank exposed to sunlight, including all equipment necessary for the installation and operation of the water tank as a part of the overall water system of the property; or

(3) a non-vented trombe wall, including all equipment necessary for the installation and operation of the trombe wall."

## **Chapter 204 Section 11 Laws 2007**

Section 11. SHORT TITLE.--Sections 11 through 18 of this act may be cited as the "Alternative Energy Product Manufacturers Tax Credit Act".

## **Chapter 204 Section 12 Laws 2007**

Section 12. DEFINITIONS.--As used in the Alternative Energy Product Manufacturers Tax Credit Act:

A. "alternative energy product" means an alternative energy vehicle, fuel cell system, renewable energy system or any component of an alternative energy vehicle,

fuel cell system or renewable energy system or components for integrated gasification combined cycle coal facilities and equipment related to the sequestration of carbon from integrated gasification combined cycle plants;

B. "alternative energy vehicle" means a motor vehicle manufactured by an original equipment manufacturer that fully warrants and certifies that the motor vehicle meets the federal motor vehicle safety standards and is designed to be propelled in whole or in part by electricity; "alternative energy vehicle" includes a gasoline-electric hybrid motor vehicle exempt from the motor vehicle excise tax pursuant to Subsection F of Section 7-14-6 NMSA 1978;

C. "component" means a part, assembly of parts, material, ingredient or supply that is incorporated directly into an end product;

D. "department" means the taxation and revenue department, the secretary of taxation and revenue or an employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "fuel cell system" means a system that converts hydrogen, natural gas or waste gas to electricity without combustion, including:

(1) a fuel cell or a system used to generate or reform hydrogen for use in a fuel cell; or

(2) a system used to generate or reform hydrogen for use in a fuel cell, including:

(a) electrolyzers that use renewable energy; and

(b) reformers that use natural gas as the feedstock;

F. "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include construction, farming, power generation or processing natural resources;

G. "manufacturing equipment" means an essential machine, mechanism or tool or a component of an essential machine, mechanism or tool used directly and exclusively in a taxpayer's manufacturing operation and that is subject to depreciation pursuant to the Internal Revenue Code of 1986 by the taxpayer carrying on the manufacturing; provided that "manufacturing equipment" does not include a vehicle that leaves the site of a manufacturing operation for the purpose of transporting persons or property, including property for which the taxpayer claims a credit pursuant to Section 7-9-79 NMSA 1978;

H. "manufacturing operation" means a plant employing personnel to perform production tasks, in conjunction with manufacturing equipment not previously existing at the site, to produce alternative energy products;

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

J. "pass-through entity" means a business association other than:

(1) a sole proprietorship;

(2) an estate or trust;

(3) a corporation, limited liability company, partnership or other entity that is not a sole proprietorship taxed as a corporation for federal income tax purposes for the taxable year; or

(4) a partnership that is organized as an investment partnership in which the partner's income is derived solely from interest, dividends and sales of securities;

K. "qualified expenditure" means an expenditure for the purchase of manufacturing equipment made after July 1, 2006 by a taxpayer approved by the department;

L. "renewable energy" means energy from solar heat, solar light, wind, geothermal energy, landfill gas or biomass either singly or in combination that produces low or zero emissions and has substantial long-term production potential;

M. "renewable energy system" means a system using only renewable energy to produce hydrogen or to generate electricity, including related cogeneration systems that create mechanical energy or that produce heat or steam for space or water heating and agricultural or small industrial processes and includes a:

(1) photovoltaic energy system;

(2) solar-thermal energy system;

(3) biomass energy system;

- (4) wind energy system;
- (5) hydrogen production system; or
- (6) battery cell energy system; and

N. "taxpayer" means a person, including a shareholder, member, partner or other owner of a pass-through entity, who is liable for payment of a tax or to whom an assessment has been made, if the assessment remains unabated or the amount thereof has not been paid.

### **Chapter 204 Section 13 Laws 2007**

Section 13. ADMINISTRATION.--The department shall administer the Alternative Energy Product Manufacturers Tax Credit Act pursuant to the Tax Administration Act.

### **Chapter 204 Section 14 Laws 2007**

Section 14. ALTERNATIVE ENERGY PRODUCT MANUFACTURERS TAX CREDIT.--

A. A tax credit to be known as the "alternative energy product manufacturers tax credit" may be claimed by a taxpayer in an amount:

(1) for which the taxpayer has been granted approval by the department pursuant to the Alternative Energy Product Manufacturers Tax Credit Act; and

(2) not to exceed five percent of the taxpayer's qualified expenditures.

B. The alternative energy product manufacturers tax credit may only be deducted from the taxpayer's modified combined tax liability. Any portion of the alternative energy product manufacturers tax credit that remains unused at the end of the taxpayer's reporting period may be carried forward for five years.

### **Chapter 204 Section 15 Laws 2007**

Section 15. ELIGIBILITY REQUIREMENTS--EMPLOYMENT.--To be eligible to claim a credit pursuant to the Alternative Energy Product Manufacturers Tax Credit Act, the taxpayer shall employ a number of full-time employees equal to one full-time employee in addition to the number of full-time employees employed one year prior to the day on which the taxpayer applies for the credit for every:

A. five hundred thousand dollars (\$500,000), or a portion of that amount, of qualified expenditures claimed by the taxpayer in a taxable year in the same claim, up to a value of thirty million dollars (\$30,000,000); and

B. one million dollars (\$1,000,000), or a portion of that amount, in value of qualified expenditures over thirty million dollars (\$30,000,000) claimed by the taxpayer in a taxable year in the same claim.

## **Chapter 204 Section 16 Laws 2007**

Section 16. APPROVAL OF CREDIT -- ISSUANCE AND DENIAL -- APPLICATION -- DEADLINES.--

A. The department shall issue or deny approval for an alternative energy product manufacturers tax credit in response to a taxpayer's application for approval for the credit. The department shall issue approval for a credit claimed by a taxpayer who satisfies the requirements of the Alternative Energy Product Manufacturers Tax Credit Act.

B. The department may require a taxpayer who claims an alternative energy product manufacturers tax credit to produce evidence of the taxpayer's compliance with the Alternative Energy Product Manufacturers Tax Credit Act.

C. A taxpayer may apply for approval of an alternative energy product manufacturers tax credit on or before the last day of the year following the end of the calendar year in which the qualified expenditure is made. The department shall not issue approval for the alternative energy product manufacturers tax credit if the taxpayer applies for approval after the last day of the year following the end of the calendar year in which the qualified expenditure is made.

## **Chapter 204 Section 17 Laws 2007**

Section 17. RECAPTURE.--If the taxpayer or a successor in the business of the taxpayer ceases operations at a facility in New Mexico for at least one hundred eighty consecutive days within a two-year period after the taxpayer has claimed an alternative energy product manufacturers tax credit, the department shall not grant additional alternative energy product manufacturers tax credits with respect to that facility. Any amount of the approved credit with respect to that facility that is not claimed against the taxpayer's modified combined tax liability shall be extinguished, and within thirty days after the one hundred eightieth day of cessation of operations, the taxpayer shall pay the modified income tax liability against which an approved credit was taken. For the purposes of this section, a taxpayer shall not be deemed to have ceased operations during reasonable periods for maintenance or retooling, for the repair or replacement of facilities damaged or destroyed or during labor disputes.

## **Chapter 204 Section 18 Laws 2007**

Section 18. CREDIT CLAIM FORMS.--The department shall provide credit claim forms and instructions. A credit claim form shall accompany any return in which the

taxpayer claims a credit, and the claim shall specify the amount of credit intended to apply to each return.

### **Chapter 204 Section 19 Laws 2007**

Section 19. REPEAL.--Laws 2005, Chapter 104, Section 7 is repealed.

### **Chapter 204 Section 20 Laws 2007**

Section 20. DELAYED REPEAL.--Sections 5 and 6 of this act are repealed effective January 1, 2013.

### **Chapter 204 Section 21 Laws 2007**

Section 21. APPLICABILITY.--

A. The provisions of Sections 1 and 2 of this act apply to taxable years beginning on or after January 1, 2008.

B. The provisions of Sections 3 and 4 of this act apply to taxable years beginning on or after January 1, 2007 through December 31, 2013.

C. The provisions of Sections 5 and 6 of this act apply to taxable years beginning on or after January 1, 2008 and ending on or before December 31, 2012.

### **Chapter 204 Section 22 Laws 2007**

Section 22. CONTINUED APPLICABILITY OF TAX CREDIT.--The balance of a tax credit granted before December 31, 2012 to a taxpayer pursuant to Section 5 or 6 of this act may be applied after that date in the manner provided for in Section 5 or 6 of this act against the taxpayer's personal or corporate income tax liability, as applicable as if the provisions of Sections 5 and 6 of this act were still in effect.

### **Chapter 204 Section 23 Laws 2007**

Section 23. EFFECTIVE DATE.--The effective date of the provisions of Sections 9 through 18 of this act is July 1, 2007.

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Senate Bill 463, as amended

with certificate of correction

Approved April 2, 2007

# **LAWS 2007, CHAPTER 205**

AN ACT

RELATING TO WORKERS' COMPENSATION; REVISING INVESTMENT GUIDELINES FOR SELF-INSURED GROUPS; AMENDING A SECTION OF THE GROUP SELF-INSURANCE ACT.

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

## **Chapter 205 Section 1 Laws 2007**

Section 1. Section 52-6-16 NMSA 1978 (being Laws 1986, Chapter 22, Section 90) is amended to read:

"52-6-16. INVESTMENTS.--Funds not needed for current obligations may be invested by the board of trustees in accordance with the provisions of Chapter 59A, Article 9 NMSA 1978 applicable to investments, except that, notwithstanding the provisions of Section 59A-9-18 NMSA 1978:

A. the board of trustees may make loans or investments not otherwise expressly permitted under Chapter 59A, Article 9 NMSA 1978, in an aggregate amount not exceeding ten percent of the group's assets and not exceeding two percent of such assets as to any one such loan or investment, provided that such loans and investments do not constitute an amount that is greater than total surplus, if the loan or investment meets the requirements of Section 59A-9-3 NMSA 1978 and by reason of safety of principal and yield otherwise qualifies as a sound investment; and

B. the calculation of the group's other loans and investments described in Subsection A of this section shall not include the fair market value of any real property occupied by the group."

## **Chapter 205 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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SENATE FLOOR SUBSTITUTE FOR

Senate Judiciary Committee Substitute

for Senate Bill 473

Approved April 2, 2007

## **LAWS 2007, CHAPTER 206**

AN ACT

RELATING TO STATE GOVERNMENT; AMENDING AND CHANGING THE NAME OF THE GOVERNMENTAL DISPUTE RESOLUTION ACT; ESTABLISHING A BUREAU KNOWN AS THE OFFICE OF ALTERNATIVE DISPUTE PREVENTION AND RESOLUTION IN THE RISK MANAGEMENT DIVISION OF THE GENERAL SERVICES DEPARTMENT; PRESCRIBING THE DUTIES AND POWERS OF THE OFFICE; CREATING AN ADVISORY COUNCIL; MAKING AN APPROPRIATION.

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

### **Chapter 206 Section 1 Laws 2007**

Section 1. Section 12-8A-1 NMSA 1978 (being Laws 2000, Chapter 65, Section 1) is amended to read:

"12-8A-1. SHORT TITLE.--Chapter 12, Article 8A NMSA 1978 may be cited as the "Governmental Dispute Prevention and Resolution Act"."

### **Chapter 206 Section 2 Laws 2007**

Section 2. Section 12-8A-2 NMSA 1978 (being Laws 2000, Chapter 65, Section 2) is amended to read:

"12-8A-2. DEFINITIONS.--As used in the Governmental Dispute Prevention and Resolution Act:

A. "agency" means the state and its agencies, departments, boards, instrumentalities or institutions that are insured by the division;

B. "alternative dispute resolution" means a process other than litigation used to prevent or resolve disputes, including mediation, facilitation, regulatory negotiation, settlement conferences, binding and nonbinding arbitration, fact-finding, conciliation, early neutral evaluation and policy dialogues;

C. "council" means the alternative dispute prevention and resolution advisory council;

D. "department" means the general services department;

E. "division" means the risk management division of the department;

F. "interested party" means a person having or anticipating a dispute with any agency, or a representative of that person;

G. "neutral party" means a person who is trained to provide services as a mediator, arbitrator, facilitator, fact-finder or conciliator who aids parties to prevent or resolve disputes;

H. "office" means the bureau known as the office of alternative dispute prevention and resolution in the division; and

I. "public facilitation" means collaboration with identified stakeholders concerning public policy issues, including policy dialogues and other techniques to seek consensus, reconcile differences or prevent disputes from arising in the development or implementation of public administration issues."

## **Chapter 206 Section 3 Laws 2007**

Section 3. Section 12-8A-3 NMSA 1978 (being Laws 2000, Chapter 65, Section 3) is amended to read:

"12-8A-3. ALTERNATIVE DISPUTE RESOLUTION--AUTHORIZATION--PROCEDURES--AGENCY COORDINATORS.--

A. An agency shall provide interested parties with access to alternative dispute resolution procedures to prevent or resolve any dispute, issue or controversy involving any of the agency's operations, policies, programs or functions, including formal and informal adjudications, rulemakings, enforcement actions, permitting, certifications, licensing, policy development and contract administration. Alternative dispute resolution procedures are voluntary and may be initiated at the request of the agency or an interested party to a dispute. Either party may decline to participate in a requested or offered alternative dispute resolution activity.

B. An agency that participates in alternative dispute resolution shall develop a written agreement to be signed by interested parties that:

(1) provides for the appointment of neutral parties, consultants or experts agreed upon by all parties and serving at the will of all parties. A neutral party, consultant or expert shall have no official, financial or personal conflict of interest with any issue or party in controversy unless the conflict of interest is fully disclosed in writing to all of the parties and all parties agree that the person may continue to serve;

(2) specifies any limitation periods applicable to the commencement or conclusion of formal administrative or judicial proceedings and, if applicable, specifies any time periods that the parties have agreed to waive;

(3) contains provisions for alternative dispute resolution that conform with rules promulgated by the division; and

(4) sets forth how costs and expenses of the procedure chosen shall be equitably apportioned among the parties.

C. An agreement, developed pursuant to Subsection B of this section, may be included in an enforcement order, stipulation, contract, permit or other document entered into or issued by the agency.

D. The administrative head of an agency may designate an employee as the alternative dispute resolution coordinator for that agency. The coordinator shall:

(1) make recommendations to the agency's executive staff on issues and disputes that are suitable for alternative dispute resolution;

(2) analyze the agency's enabling statutes and rules to determine whether they contain impediments to the use of alternative dispute resolution or inconsistencies with rules promulgated by the office and suggest any modifications;

(3) monitor the agency's use of alternative dispute resolution;

(4) arrange for training of agency staff in alternative dispute resolution;

(5) respond to inquiries from the office or council concerning the agency's use of alternative dispute resolution;

(6) make recommendations to the office and council concerning development and implementation of rules, standards and educational materials;

(7) serve as the agency's liaison with the office and the council; and

(8) provide information about the office's rules and the agency's alternative dispute resolution procedures to the agency's staff and to the public."

## **Chapter 206 Section 4 Laws 2007**

Section 4. Section 12-8A-4 NMSA 1978 (being Laws 2000, Chapter 65, Section 4) is amended to read:

"12-8A-4. AGENCY BUDGETS--CONTRACTS FOR SERVICES.--

A. An agency shall take fiscal actions necessary to achieve the objectives of the Governmental Dispute Prevention and Resolution Act and pay for costs incurred in taking those actions, including reasonable fees for training, policy review, system design, evaluation and the use of impartial third parties. Unless specifically prohibited by

law, an agency may request category transfers pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978 for the purpose of paying the necessary costs incurred in meeting the objectives of the Governmental Dispute Prevention and Resolution Act.

B. An agency may contract with another agency or with a private entity for any service necessary to meet the objectives of the Governmental Dispute Prevention and Resolution Act."

## **Chapter 206 Section 5 Laws 2007**

Section 5. Section 12-8A-5 NMSA 1978 (being Laws 2000, Chapter 65, Section 5) is amended to read:

"12-8A-5. EFFECT ON OTHER LAWS.--Nothing in the Governmental Dispute Prevention and Resolution Act and rules, agreements and procedures developed pursuant to that act:

A. limits other dispute prevention or resolution procedures available to an agency;

B. denies a person a right granted under federal or other state law, including a right to an administrative or judicial hearing;

C. waives immunity from suit or affects a waiver of immunity from suit contained in any other law;

D. waives immunity granted under the eleventh amendment to the constitution of the United States;

E. authorizes or prohibits binding arbitration as a method of alternative dispute resolution when mutually agreed to in writing by the interested parties;

F. authorizes or requires an agency to take any action that is inconsistent or contrary to any law or rule;

G. authorizes or requires any meeting, otherwise required to be open to the public, to be closed;

H. authorizes or requires any record, otherwise open to public inspection, to be sealed; or

I. shall be interpreted to create an additional layer of administrative process or to discourage or impede the use of alternative dispute resolution."

## **Chapter 206 Section 6 Laws 2007**

Section 6. A new section of the Governmental Dispute Prevention and Resolution Act is enacted to read:

"ALTERNATIVE DISPUTE PREVENTION AND RESOLUTION ADVISORY COUNCIL CREATED.--

A. The "alternative dispute prevention and resolution advisory council" is created in the division. The council consists of nine voting members as follows:

- (1) the secretary of general services;
- (2) the secretary of finance and administration;
- (3) the director of the state personnel office;
- (4) the superintendent of regulation and licensing;

(5) the cabinet secretary or agency head of four other executive branch agencies to be appointed by the governor from among the ten agencies with the highest occurrence of public liability claims per authorized number of staff, no more than two of whom are cabinet secretaries; and

- (6) the director of the division, who shall serve as chair of the council.

B. An agency head may designate a representative to serve on the council.

C. The council shall meet at least twice each year."

## **Chapter 206 Section 7 Laws 2007**

Section 7. A new section of the Governmental Dispute Prevention and Resolution Act is enacted to read:

"ALTERNATIVE DISPUTE PREVENTION AND RESOLUTION ADVISORY COUNCIL--DUTIES.--The council shall:

A. review information about the use of alternative dispute resolution, including referrals, and make recommendations to the office to improve the effectiveness of alternative dispute resolution programs;

B. develop strategies to encourage and expand the use of public facilitation in government operations;

C. recommend to the division appropriate training standards and schedules for neutral parties and agency managers and supervisors;

D. review and recommend standards and rules to the division to foster participation in alternative dispute resolution and minimize conflict in the discussion of issues under consideration by interested parties; and

E. present an annual report to the department, the governor and the legislature by December 1 of each year on the use, cost and success of alternative dispute resolution programs."

## **Chapter 206 Section 8 Laws 2007**

Section 8. A new section of the Governmental Dispute Prevention and Resolution Act is enacted to read:

"OFFICE OF ALTERNATIVE DISPUTE PREVENTION AND RESOLUTION--  
CREATED--POWERS--DUTIES.--

A. The "office of alternative dispute prevention and resolution" is created as a bureau of the division.

B. In order to promote alternative dispute resolution, the office shall:

(1) organize and manage alternative dispute resolution programs for agencies, employees, vendors, businesses regulated by governmental entities and other interested parties;

(2) coordinate the use of neutral parties to facilitate alternative dispute resolution for interested parties and training for agency staff;

(3) implement development and use of alternative dispute resolution strategies;

(4) provide staff support for the council;

(5) maintain information and educate government officials about training and use of alternative dispute resolution and referrals; and

(6) prepare an annual report for review and presentation by the council on the use, cost and success of alternative dispute resolution programs."

## **Chapter 206 Section 9 Laws 2007**

Section 9. APPROPRIATION.--One hundred eighty-five

thousand dollars (\$185,000) is appropriated from the public liability fund to the risk management division of the general services department for expenditure in fiscal year 2008 for three full-time employees for the office of alternative dispute prevention and

resolution for the purpose of implementing the Governmental Dispute Prevention and Resolution Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the public liability fund.

## **Chapter 206 Section 10 Laws 2007**

Section 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 479, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 207**

AN ACT

RELATING TO TORTS; PROVIDING EXCLUSION FROM THE WAIVER OF IMMUNITY FOR IRRIGATION AND CONSERVANCY DISTRICTS THAT AUTHORIZE ANY PART OF THEIR PROPERTY TO BE USED AS PART OF TRAILS WITHIN A STATE PARK, THE STATE TRAILS SYSTEM OR A LOCAL PUBLIC TRAIL.

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

### **Chapter 207 Section 1 Laws 2007**

Section 1. Section 41-4-6 NMSA 1978 (being Laws 1976, Chapter 58, Section 6, as amended) is amended to read:

"41-4-6. LIABILITY--BUILDINGS, PUBLIC PARKS, MACHINERY, EQUIPMENT AND FURNISHINGS.--

A. The immunity granted pursuant to Subsection A of Section 41-4-4 NMSA 1978 does not apply to liability for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of public employees while acting within the scope of their duties in the operation or maintenance of any building, public park, machinery, equipment or furnishings.

B. Nothing in this section shall be construed as granting waiver of immunity for any damages arising out of the operation or maintenance of works used for diversion or storage of water.

C. All irrigation and conservancy districts and their public employees acting lawfully and within the scope of their duties that authorize any part of their property to be used as part of trails within a state park, the state trails system or a trail established and managed by a local public body are excluded from the waiver of immunity under Subsection A of this section for damages arising out of the operation or maintenance of such trails if the irrigation or conservancy district has entered into a written agreement with the state agency or local public body operating or maintaining the trail and that state agency or local public body has agreed to assume the operation and maintenance of that portion of the district's property used for the trail; the state agency or local public body operating or maintaining the trail shall be subject to liability as provided in the Tort Claims Act."

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Senate Bill 486, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 208**

AN ACT

RELATING TO ENERGY; REQUIRING BIODIESEL IN MOTOR VEHICLE DIESEL FUELS; AMENDING THE PETROLEUM PRODUCTS STANDARDS ACT.

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

### **Chapter 208 Section 1 Laws 2007**

Section 1. Section 57-19-27 NMSA 1978 (being Laws 1993, Chapter 98, Section 3) is amended to read:

"57-19-27. DEFINITIONS.--As used in the Petroleum Products Standards Act:

A. "biodiesel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets American society for testing and materials specification for biodiesel fuel, B100, blend stock for distillate fuels;

B. "board" means the board of regents of New Mexico state university;

C. "dealer" means a dealer as defined by the Special Fuels Supplier Tax Act;

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

E. "diesel fuel" means any diesel-engine fuel used for the generation of power to propel a motor vehicle;

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

G. "distributor" means a distributor as defined by the Gasoline Tax Act;

H. "lubricating oil" means any oil used to lubricate transmissions, gears or axles;

I. "motor fuel" means any liquid product used for the generation of power in an internal combustion engine, excluding liquified petroleum gases and aviation fuels;

J. "motor oil" means oil for use in lubricating internal combustion engines;

K. "person" means any natural person, firm, partnership, association or corporation;

L. "petroleum product" means motor fuel, kerosene, lubricating oil, motor oil, anti-freeze or brake fluid; and

M. "retailer" means any person who sells motor fuel and delivers the motor fuel into the supply tanks of motor vehicles."

## **Chapter 208 Section 2 Laws 2007**

Section 2. Section 57-19-28 NMSA 1978 (being Laws 1993, Chapter 98, Section 4) is amended to read:

### **"57-19-28. DUTIES OF THE BOARD--AUTHORITY OF THE DIRECTOR.--**

A. The board is responsible for the administration and enforcement of the provisions of the Petroleum Products Standards Act. The board shall adopt rules and regulations necessary to administer and enforce the provisions of that act. The board shall provide public notice and allow public comment on all proposed rules and regulations.

B. The director shall have the authority to:

(1) inspect, investigate, analyze and take appropriate actions to administer and enforce the provisions of the Petroleum Products Standards Act;

(2) enter any commercial premises from which petroleum products are offered for sale during normal business hours. If the premises are not open to the public, the director shall present the director's credentials and enter only with consent from the commercial entity. If no consent is given, the director shall obtain a search warrant;

(3) collect or cause to be collected samples of petroleum products offered for sale and cause such samples to be tested or analyzed to determine if they are in compliance with the provisions of the Petroleum Products Standards Act and regulations adopted pursuant to that act;

(4) issue and enforce stop-sale, hold and removal orders with respect to a petroleum product kept, offered or exposed for sale in violation of the provisions of the Petroleum Products Standards Act and regulations adopted pursuant to that act;

(5) require distributors and retailers to retain records pertaining to petroleum product purchases and sales for a period of not more than one year;

(6) maintain and operate a petroleum product testing laboratory to ensure that all petroleum products offered for sale in New Mexico meet standards prescribed in the Petroleum Products Standards Act and regulations adopted pursuant to that act;

(7) issue and enforce stop-use orders for measuring equipment or vehicle tanks that are used commercially and that do not conform to the provisions of the Petroleum Products Standards Act and regulations adopted pursuant to that act; and

(8) delegate to authorized representatives any of the responsibilities for the proper administration of the Petroleum Products Standards Act.

C. If in consultation with the secretary of energy, minerals and natural resources and pursuant to regular, periodic monitoring, the director determines that sufficient amounts of biodiesel are not available to meet the requirements of Section 57-19-29 NMSA 1978 or that the price of the biodiesel blend significantly exceeds the price of diesel fuel for at least two months, the director shall suspend those requirements for a period of up to six months."

## **Chapter 208 Section 3 Laws 2007**

Section 3. Section 57-19-29 NMSA 1978 (being Laws 1993, Chapter 98, Section 5) is amended to read:

"57-19-29. QUALITY STANDARDS.--

A. Unless modified by regulation of the board, the quality standards, tests and methods of conducting analyses on petroleum products manufactured, kept, stored, sold or offered for sale in New Mexico shall be those last adopted and published by the American society for testing and materials or the society of automotive engineers and shall be used to determine compliance with the Petroleum Products Standards Act and regulations adopted pursuant to that act. In the absence of a petroleum product quality standard, test or method from the American society for testing and materials or the society of automotive engineers, the board may adopt a regulation that establishes a quality standard, test or method to conduct analyses on petroleum products.

B. After July 1, 2010 and before July 1, 2012, all diesel fuel sold to state agencies, political subdivisions of the state and public schools for use in motor vehicles on the streets and highways of this state shall contain five percent biodiesel, except that this standard may be temporarily suspended by the director in accordance with Section 57-19-28 NMSA 1978.

C. On or after July 1, 2012, all diesel fuel sold to consumers for use in motor vehicles on the streets and highways of this state shall contain five percent biodiesel, except that this standard may be temporarily suspended by the director in accordance with Section 57-19-28 NMSA 1978."

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Senate Conservation Committee

Substitute for Senate Bill 489

Approved April 2, 2007

## **LAWS 2007, CHAPTER 209**

### AN ACT

RELATING TO MOTOR VEHICLES; ALLOWING DETENTION OF VEHICLES FOR FAILURE TO PAY WEIGHT DISTANCE TAX; PROVIDING INCREASED PENALTIES FOR VIOLATIONS OF WEIGHT LIMITATIONS AND FOR FAILURE TO STOP AT EVERY PORT OF ENTRY AND TO CARRY A TAX IDENTIFICATION PERMIT OR A PERMIT FOR EXCESSIVE SIZE OR WEIGHT; INCREASING THE LENGTH LIMITATION FOR BUSES OPERATING ON NATIONAL NETWORK HIGHWAYS AND COMBINATION VEHICLES OR SADDLE-MOUNT VEHICLES THAT ARE SPECIALIZED EQUIPMENT; RESTRICTING APPLICATION OF MAXIMUM DRIVING AND ON-DUTY TIME VIOLATION PENALTIES TO A PASSENGER CARRIER TRANSPORTATION; ELIMINATING FEES FOR CERTAIN POLICE ESCORTS; PROVIDING ADDITIONAL MAXIMUM DRIVING AND ON-DUTY TIME PENALTIES.

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

### **Chapter 209 Section 1 Laws 2007**

Section 1. Section 65-1-26 NMSA 1978 (being Laws 1967, Chapter 97, Section 16, as amended) is amended to read:

"65-1-26. DOCUMENTS--REQUIRED IN EACH COMMERCIAL MOTOR CARRIER VEHICLE--DETENTION OF VEHICLES.--

A. A commercial motor carrier vehicle operated on a New Mexico public highway by a motor carrier required to be registered with the department shall have in it at all times:

(1) proof of payment of the trip tax; or

(2) both evidence of registration and a tax identification permit issued by the department.

B. The driver of the vehicle shall be able to display either proof of payment of the trip tax or both the evidence of registration and the tax identification permit upon request by any law enforcement officer or any employee of the department.

C. Upon failure of the driver to display either proof of payment of the trip tax or evidence of registration, it shall be presumed that the vehicle is subject to registration under the laws of New Mexico unless it can be demonstrated that the vehicle is exempt from registration requirements of the Motor Vehicle Code. A vehicle presumed subject to registration may be detained until registration, including payment of all required fees, is completed.

D. Upon failure of the driver to display either proof of payment of the trip tax or a tax identification permit issued by the department, the trip tax shall be presumed due. A vehicle presumed subject to the trip tax may be detained until the trip tax is paid.

E. A commercial motor carrier vehicle subject to and not in compliance with the weight distance requirements of the Weight Distance Tax Act may be detained until the tax is paid. A nonfiler or zero-filer status or an inactive weight distance account is proof of failure to pay the weight distance tax."

## **Chapter 209 Section 2 Laws 2007**

Section 2. Section 65-1-36 NMSA 1978 (being Laws 1978, Chapter 16, Section 1, as amended) is amended to read:

"65-1-36. PENALTY FOR VIOLATIONS OF ACT.--

A. Violation of Section 65-5-1, 65-5-2 or 66-3-1.1 NMSA 1978 is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) or more than five hundred dollars (\$500) or imprisonment not exceeding ninety days or by both the fine and imprisonment.

B. Violation of any section of the Motor Transportation Act other than a violation of Section 65-1-26, 65-1-36.1, 66-5-1, 65-5-2 or 66-3-1.1 NMSA 1978 or of the Motor Carrier Safety Act is a misdemeanor punishable by a fine of not more than one hundred dollars (\$100) or by imprisonment not exceeding thirty days or by both the fine and

imprisonment or is subject to the penalty assessment and fee provisions pursuant to Sections 66-8-116 through 66-8-116.3 NMSA 1978.

C. The payment of a fine under the provisions of any act under the jurisdiction of the department pursuant to the Motor Transportation Act shall not relieve the offender from the payment of any fees or taxes or from any other of the provisions of the Motor Transportation Act.

D. The department may, for the proper enforcement of the duties imposed upon the department pursuant to the Motor Transportation Act, detain any motor vehicle whose operator or owner is in violation of any law the department is empowered under the Motor Transportation Act to administer or enforce."

### **Chapter 209 Section 3 Laws 2007**

Section 3. Section 65-5-2 NMSA 1978 (being Laws 1943, Chapter 125, Section 9, as amended) is amended to read:

"65-5-2. PROOF OF COMPLIANCE--SCHEDULE OF PENALTIES.--Except as otherwise provided in this section, a commercial motor carrier vehicle having a gross vehicle weight or combination gross vehicle weight of over twenty-six thousand pounds shall not travel on New Mexico highways without either proof that the trip tax has been paid for the movement of the vehicle or both evidence of registration and a tax identification permit issued by the department, unless that vehicle is exempt from the weight distance tax. The department may, by regulation, exempt portions of a highway from the requirements of this section if those portions are prior to reaching a port of entry where the trip tax may be paid."

### **Chapter 209 Section 4 Laws 2007**

Section 4. Section 66-3-1.1 NMSA 1978 (being Laws 1978, Chapter 18, Section 1, as amended) is amended to read:

"66-3-1.1. MOTOR CARRIERS REQUIRED TO REGISTER WITH THE DEPARTMENT.--

A. All motor carriers desiring and eligible for annual registration provisions relating to proportional registration or full reciprocity shall register their vehicles with the department. The department shall register all motor carriers who satisfy all New Mexico requirements relating to motor carriers, but may refuse to register any vehicle subject to the federal heavy vehicle use tax imposed by Section 4481 of the United States Internal Revenue Code of 1986 without proof of payment of such tax in the form prescribed by the secretary of the treasury of the United States. Registration of motor carrier vehicles with the department shall remain in force during the calendar registration year as specified in Section 65-1-13 or 66-3-2.1 NMSA 1978 unless suspended or canceled by

the department for noncompliance with any New Mexico motor vehicle or motor carrier requirements.

B. In addition to the provisions of Subsection A of this section, motor carriers operating vehicles subject to the weight distance tax pursuant to the Weight Distance Tax Act or vehicles subject to special fuel user permit requirements pursuant to the Special Fuels Supplier Tax Act shall apply for a tax identification permit."

## **Chapter 209 Section 5 Laws 2007**

Section 5. Section 66-3-3.1 NMSA 1978 (being Laws 1992, Chapter 106, Section 7, as amended) is amended to read:

"66-3-3.1. TAX IDENTIFICATION PERMIT.--The department shall implement a system for identifying motor carriers subject to the weight distance tax and special fuel user permit requirements, including an identifying number for each motor carrier covered by the system. Annually, the department shall issue one or more original tax identification permits sufficient for the number of vehicles specified by each motor carrier who applies for a tax identification permit; provided that the motor carrier continues to be subject to and in compliance with the weight distance tax and special fuel user permit requirements. The tax identification permit shall contain the department's identifying number for the motor carrier and other information that the department deems necessary. A tax identification permit shall be issued within fourteen days of the date on the form of payment for the permit, including cashier's checks and money orders, submitted with the application for the permit."

## **Chapter 209 Section 6 Laws 2007**

Section 6. Section 66-7-207 NMSA 1978 (being Laws 1978, Chapter 35, Section 396, as amended) is amended to read:

"66-7-207. WRITTEN REPORTS OF ACCIDENTS.--

A. The driver of a vehicle involved in an accident resulting in bodily injury to or death of any person or total property damage to an apparent extent of five hundred dollars (\$500) or more shall, within five days after the accident, forward a written report of the accident to the department of transportation.

B. The department of transportation may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient in the opinion of the department of transportation and may require witnesses of accidents to render reports concerning the accidents to the department of transportation.

C. Every law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident of which report must be made as required in this section, either

at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses, shall, within twenty-four hours after completing the investigation, forward a written report of the accident to the department of transportation. A law enforcement officer shall also, within twenty-four hours after completing the investigation, forward the written report of the accident to the motor transportation division of the department of public safety if the accident involves a commercial motor vehicle and results in:

(1) bodily injury to any person and the person is transported to a medical facility for immediate medical attention;

(2) the death of any person; or

(3) any vehicle involved in the accident being towed from the scene due to disabling damage caused by the accident."

### **Chapter 209 Section 7 Laws 2007**

Section 7. Section 66-7-314 NMSA 1978 (being Laws 1978, Chapter 35, Section 418, as amended) is amended to read:

"66-7-314. MOVEMENT OF HAZARDOUS VEHICLE--ESCORT MAY BE REQUIRED.--When, in the judgment of the motor transportation division of the department of public safety or local authorities with respect to highways under their jurisdiction, the movement of any vehicle is deemed a hazard to traffic upon a highway over which the vehicle is to travel, the granting of permission for the movement of the vehicle may be conditioned upon a special escort accompanying the hazardous vehicle."

### **Chapter 209 Section 8 Laws 2007**

Section 8. Section 66-7-404 NMSA 1978 (being Laws 1978, Chapter 35, Section 475, as amended) is amended to read:

"66-7-404. HEIGHT AND LENGTH OF VEHICLES AND LOADS.--

A. A vehicle shall not exceed a height of fourteen feet.

B. A vehicle shall not exceed a length of forty feet extreme overall dimension and no motor home shall exceed a length of forty-five feet extreme overall dimension, exclusive of front and rear bumpers, except when operated in combination with another vehicle as provided in this section. A bus may exceed a length of forty-five feet when operating on national network highways. A combination of vehicles, unless otherwise exempted in this section, shall not exceed an overall length of sixty-five feet, exclusive of front and rear bumpers.

C. A combination of vehicles coupled together shall not consist of more than two units, except:

(1) a truck tractor and semitrailer shall be permitted to pull one trailer;

(2) a vehicle shall be permitted to pull two units, provided that the middle unit is equipped with brakes and has a weight equal to or greater than the last unit and the total combined gross weight of the towed units does not exceed the manufacturer's stated gross weight of the towing units;

(3) a double or triple saddle-mount or fifth wheel mount of vehicles in transit by driveaway-towaway methods shall be permitted;

(4) vehicles and trailers operated by or under contract for municipal refuse systems;

(5) farm trailers, implements of husbandry and fertilizer trailers operated by or under contract to a farmer or rancher in farming or ranching operations; and

(6) as provided in Subsections D through G of this section.

D. Exclusive of safety and energy conservation devices, refrigeration units and other devices such as coupling devices, vehicles operating a truck tractor semitrailer or truck tractor semitrailer-trailer combinations on the interstate highway system and those qualifying federal aid primary system highways designated by the secretary of the United States department of transportation, pursuant to the federal Surface Transportation Assistance Act of 1982, Public Law 97-424, Section 411, and on those highways designated by the department by rule or regulation with the concurrence of the New Mexico department of transportation may exceed an overall length limitation of sixty-five feet, provided that the length of the semitrailer in a truck tractor semitrailer combination does not exceed fifty-seven feet six inches and the length of the semitrailer or trailer in a truck tractor semitrailer-trailer combination does not exceed twenty-eight feet six inches. The department of public safety shall adopt rules and regulations granting reasonable access to terminals, facilities for food, fuel, repairs and rest and points of loading and unloading for household goods carriers to vehicles operating in combination pursuant to this subsection. As used in this subsection, "truck tractor" means a non-cargo carrying power unit designed to operate in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the truck tractor.

E. The following combination vehicles are specialized equipment and may exceed an overall length of sixty-five feet pursuant to the Code of Federal Regulations, Title 23, Section 658.13:

(1) automobile transporters;

- (2) boat transporters;
- (3) beverage semitrailers; and
- (4) munitions carriers using dromedary equipment.

F. A saddle-mount vehicle is specialized equipment and may not exceed an overall length of ninety-seven feet pursuant to the Code of Federal Regulations, Title 23, Section 658.13.

G. Notwithstanding any other subsection of this section, a trailer or semitrailer combination of such dimensions as those that were in actual and lawful use in this state on December 1, 1982 may be lawfully operated on the highways of this state."

**Chapter 209 Section 9 Laws 2007**

Section 9. Section 66-7-410 NMSA 1978 (being Laws 1978, Chapter 35, Section 481) 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 and last axles of group	Allowed load in pounds 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 four hundred pounds if the vehicle or combination of vehicles uses idle reduction technology."

## **Chapter 209 Section 10 Laws 2007**

Section 10. Section 66-7-411 NMSA 1978 (being Laws 1978, Chapter 35, Section 482, as amended) is amended to read:

"66-7-411. AUTHORIZED REPRESENTATIVE MAY WEIGH VEHICLES AND REQUIRE REMOVAL OF EXCESS LOADS--GRADUATED PENALTIES.--

A. A police officer with the motor transportation division or the New Mexico state police division of the department of public safety, having reason to believe that the weight of a vehicle and load is unlawful, may require the driver to stop and submit to weighing of the vehicle and load by means of either portable or stationary scales and may require the vehicle to be driven to the nearest scales approved by the department of public safety if the scales are within five miles.

B. When a police officer with the motor transportation division or the New Mexico state police division of the department of public safety or a transportation inspector, upon weighing a vehicle or combination, determines that the gross vehicle weight or combination gross vehicle weight exceeds the maximum authorized by Sections 66-7-409 and 66-7-410 NMSA 1978, the officer or inspector shall require the driver or owner of the vehicle or combination to unload that portion of the load necessary to decrease the gross vehicle weight or combination gross vehicle weight to the authorized maximum.

C. A driver of a vehicle who fails or refuses to stop and submit the vehicle and load to weighing or who fails or refuses, when directed by a duly authorized police officer with the motor transportation division or the New Mexico state police division of the department of public safety or a transportation inspector, upon a weighing of the vehicle, to unload the vehicle and otherwise comply with the provisions of this section is guilty of a misdemeanor.

D. A shipper or a person loading the vehicle who intentionally overloads a vehicle that the shipper or person has reason to believe will travel in that condition upon a public highway is guilty of a misdemeanor and shall be fined in accordance with Subsection E of this section.

E. In all cases of violations of weight limitations, the penalties shall be assessed and imposed in accordance with the following schedule:

**WEIGHT OF EXCESS**

<b>LOAD IN POUNDS</b>	<b>AMOUNT OF FINE</b>
1 to 3,000	fifty dollars (\$50.00)
3,001 to 4,000	eighty dollars (\$80.00)
4,001 to 5,000	one hundred dollars (\$100)
5,001 to 6,000	one hundred fifty dollars (\$150)
6,001 to 7,000	two hundred fifty dollars (\$250)
7,001 to 8,000	three hundred fifty dollars (\$350)
8,001 to 9,000	four hundred dollars (\$400)
9,001 to 10,000	five hundred dollars (\$500)
over 10,000	seven hundred dollars (\$700)."

**Chapter 209 Section 11 Laws 2007**

Section 11. Section 66-7-413 NMSA 1978 (being Laws 1978, Chapter 35, Section 484, as amended) is amended to read:

"66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--SPECIAL NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES.--

A. The department of public safety and local highway authorities may, in their discretion, upon application in writing and good cause being shown, issue a special permit in writing authorizing the applicant to operate or move a vehicle or load of a size or weight exceeding the maximum specified in Sections 66-7-401 through 66-7-416 NMSA 1978 on a highway under the jurisdiction of the state transportation commission or local authorities. Except for the movement of manufactured homes, a permit may be granted, in cases of emergency, for the transportation of loads on a certain unit or combination of equipment for a specified period of time not to exceed one year, and the

permit shall contain the route to be traversed, the type of load to be transported and any other restrictions or conditions deemed necessary by the body granting the permit. In every other case, the permit shall be issued for a single trip and may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the body granting the permit. Every permit shall be carried in the vehicle to which it refers and shall be opened for inspection to any peace officer. It is a misdemeanor for a person to violate a condition or term of the special permit.

B. The department of public safety shall promulgate rules in accordance with the State Rules Act pertaining to safety practices, liability insurance and equipment for escort vehicles provided by the motor carrier and for escort vehicles provided by a private business in this state.

(1) The department of public safety shall provide the escort personnel with a copy of applicable rules and shall inspect the escort vehicles for the safety equipment required by the rules. If the escort vehicles and personnel meet the requirements set forth in the rules, the department of public safety shall issue the special permit.

(2) The movement of vehicles upon the highways of this state requiring a special permit and required to use an escort of the type noted in Paragraph (1) of this subsection is subject to department of public safety authority and inspection at all times.

(3) The department of transportation shall conduct engineering investigations and engineering inspections to determine which four-lane highways are safe for the operation or movement of manufactured homes without an escort. After making that determination, the department of transportation shall hold public hearings in the area of the state affected by the determination, after which it may adopt rules designating those four-lane highways as being safe for the operation or movement of manufactured homes without an escort. If a portion of such a four-lane highway lies within the boundaries of a municipality, the department of transportation, after obtaining the approval of the municipal governing body, shall include such portions in its rules.

C. Except for the movement of manufactured homes, special permits may be issued for a single vehicle or combination of vehicles by the department of public safety for a period not to exceed one year for a fee of two hundred fifty dollars (\$250). The special permits may allow excessive height, length and width for a vehicle or combination of vehicles or load thereon and may include a provision for excessive weight if the weight of the vehicle or combination of vehicles is not greater than one hundred forty thousand pounds. Utility service vehicles, operating with special permits pursuant to this subsection, shall be exempt from prohibitions or restrictions relating to hours or days of operation or restrictions on movement because of poor weather conditions.

D. Special permits for a single trip for a vehicle or combination of vehicles or load thereon of excessive weight, width, length and height may be issued by the department of public safety for a single vehicle for a fee of twenty-five dollars (\$25.00) plus the

product of two and one-half cents (\$.025) for each two thousand pounds in excess of eighty-six thousand four hundred pounds or major fraction thereof multiplied by the number of miles to be traveled by the vehicle or combination of vehicles on the highways of this state.

E. If a vehicle for which a permit is issued pursuant to this section is a manufactured home, the department of public safety or local highway authority issuing the permit shall furnish the following information to the property tax division of the taxation and revenue department, which shall forward the information:

(1) to the county assessor of a county from which a manufactured home is being moved, the date the permit was issued, the location being moved from, the location being moved to if within the same county, the name of the owner of the manufactured home and the identification and registration numbers of the manufactured home;

(2) to the county assessor of any county in this state to which a manufactured home is being moved, the date the permit was issued, the location being moved from, the location being moved to, the name of the owner of the manufactured home and the registration and identification numbers of the manufactured home; and

(3) to the owner of a manufactured home having a destination in this state, notification that the information required in Paragraphs (1) and (2) of this subsection is being given to the respective county assessors and that manufactured homes are subject to property taxation.

F. Except as provided in Subsection G of this section, if the movement of a manufactured home originates in this state, a permit shall not be issued pursuant to Subsection E of this section until the owner of the manufactured home or the authorized agent of the owner obtains and presents to the department of public safety proof that a certificate has been issued by the county assessor or treasurer of the county in which the manufactured home movement originates showing that either:

(1) all property taxes due or to become due on the manufactured home for the current tax year or any past tax years have been paid, except for manufactured homes located on an Indian reservation; or

(2) liability for property taxes on the manufactured home does not exist for the current tax year or a past tax year, except for manufactured homes located on an Indian reservation.

G. The movement of a manufactured home from the lot or business location of a manufactured home dealer to its destination designated by an owner-purchaser is not subject to the requirements of Subsection F of this section if the manufactured home movement originates from the lot or business location of the dealer and the manufactured home was part of the dealer's inventory prior to the sale to the owner-

purchaser; however, the movement of a manufactured home by a dealer or the dealer's authorized agent as a result of a sale or trade-in from a nondealer-owner is subject to the requirements of Subsection F of this section whether the destination is the business location of a dealer or some other destination.

H. A permit shall not be issued pursuant to this section for movement of a manufactured home whose width exceeds eighteen feet with no more than a six-inch roof overhang on the left side or twelve inches on the right side in addition to the eighteen-foot width of the manufactured home. Manufactured homes exceeding the limitations of this section shall only be moved on dollies placed on the front and the rear of the structure.

I. The secretary of public safety may by rule provide for movers of manufactured homes to self-issue permits for certain sizes of manufactured homes over specific routes. The cost of a permit shall not be less than

twenty-five dollars (\$25.00).

J. The secretary of public safety may provide by rule for dealers of implements of husbandry to self-issue permits for the movement of certain sizes of implements of husbandry from the lot or business location of the dealer over specific routes with specific escort requirements, if necessary, to a destination designated by an owner-purchaser or for purposes of a working demonstration on the property of a proposed owner-purchaser. The department of public safety shall charge a fee for each self-issued permit not to exceed fifteen dollars (\$15.00).

K. A private motor carrier requesting an oversize or overweight permit shall provide proof of insurance in at least the following amounts:

(1) bodily injury liability, providing:

(a) fifty thousand dollars (\$50,000) for each person; and

(b) one hundred thousand dollars (\$100,000) for each accident; and

(2) property damage liability, providing twenty-five thousand dollars (\$25,000) for each accident.

L. A motor carrier requesting an oversize permit shall produce a copy of a warrant or a single state registration receipt as evidence that the motor carrier maintains the insurance minimums prescribed by the public regulation commission.

M. The department of public safety may provide by rule the time periods during which a vehicle or load of a size or weight exceeding the maximum specified in Sections

66-7-401 through 66-7-416 NMSA 1978 may be operated or moved by a motor carrier on a highway under the jurisdiction of the state transportation commission or local authorities.

N. Revenue from fees for special permits authorizing vehicles and loads of excessive size or weight to operate or move upon a highway under the jurisdiction of the state transportation commission or local authorities shall be collected for the department of transportation and transferred to the state road fund."

## Chapter 209 Section 12 Laws 2007

Section 12. 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		
Permitting unlicensed		
minor to drive	66-5-40	\$ 10.00
Failure to obey sign	66-7-104	10.00
Failure to obey signal	66-7-105	10.00
Speeding	66-7-301	
(1) up to and including		
ten miles an hour		
over the speed limit		15.00
(2) from eleven up to		

and including fifteen miles an hour over the speed limit		30.00
(3) from sixteen up to and including twenty miles an hour over the speed limit		65.00
(4) from twenty-one up to and including twenty-five miles an hour over the speed limit		100.00
(5) from twenty-six up to and including thirty miles an hour over the speed limit		125.00
(6) from thirty-one up to and including thirty-five miles an hour over the speed limit		150.00
(7) more than thirty-five miles an hour over the speed limit		200.00
Unfastened safety belt	66-7-372	25.00

Child not in restraint device		
or seat belt	66-7-369	25.00
Minimum speed	66-7-305	10.00
Speeding	66-7-306	15.00
Improper starting	66-7-324	10.00
Improper backing	66-7-354	10.00
Improper lane	66-7-308	10.00
Improper lane	66-7-313	10.00
Improper lane	66-7-316	10.00
Improper lane	66-7-317	10.00
Improper lane	66-7-319	10.00
Improper passing	66-7-309 through	
	66-7-312	10.00
Improper passing	66-7-315	10.00
Controlled access		
violation	66-7-320	10.00
Controlled access		
violation	66-7-321	10.00
Improper turning	66-7-322	10.00
Improper turning	66-7-323	10.00
Improper turning	66-7-325	10.00
Following too closely	66-7-318	10.00
Failure to yield	66-7-328 through	

	66-7-331	10.00
Failure to yield	66-7-332	50.00
Failure to yield	66-7-332.1	25.00
Pedestrian violation	66-7-333	10.00
Pedestrian violation	66-7-340	10.00
Failure to stop	66-7-342 and 66-7-344 through 66-7-346	10.00
Railroad-highway grade crossing violation	66-7-341 and 66-7-343	10.00
Passing school bus	66-7-347	100.00
Failure to signal	66-7-325 through 66-7-327	10.00
Failure to secure load 100.00	66-7-407	
Operation without oversize- overweight permit	66-7-413	50.00
Improper equipment	66-3-801	10.00
Improper equipment	66-3-901	20.00
Improper emergency signal	66-3-853 through 66-3-857	10.00
Operation interference	66-7-357	5.00
Littering	66-7-364	300.00

Improper parking	66-7-349 through	
	66-7-352 and 66-7-353	5.00
Improper parking	66-3-852	5.00
Failure to dim lights	66-3-831	10.00
Riding in or towing		
occupied house trailer	66-7-366	5.00
Improper opening of doors	66-7-367	5.00
No slow-moving vehicle		
emblem or flashing		
amber light	66-3-887	5.00
Open container - first		
violation	66-8-138	25.00.

B. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person.

C. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, a fine imposed upon later conviction shall not exceed the penalty assessment established for the particular penalty assessment misdemeanor and probation imposed upon a suspended or deferred sentence shall not exceed ninety days.

D. The penalty assessment for speeding in violation of Paragraph (4) of Subsection A of Section 66-7-301 NMSA 1978 is twice the penalty assessment established in Subsection A of this section for the equivalent miles per hour over the speed limit.

E. Upon a second conviction for operation without a permit for excessive size or weight pursuant to Section 66-7-413 NMSA 1978, the penalty assessment shall be two hundred fifty dollars (\$250). Upon a third or subsequent conviction, the penalty assessment shall be five hundred dollars (\$500)."

## **Chapter 209 Section 13 Laws 2007**

Section 13. Section 66-8-116.1 NMSA 1978 (being Laws 1989, Chapter 319, Section 12) is amended to read:

"66-8-116.1. PENALTY ASSESSMENT MISDEMEANORS--OVERSIZE LOAD.-- As used in the Motor Vehicle Code and the Motor Carrier Act, "penalty assessment misdemeanor" means, in addition to the definition of that term in Section 66-8-116 NMSA 1978, violation of the following listed sections of the NMSA 1978 for which the listed penalty is established:

COMMON NAME OF OFFENSE ASSESSMENT	SECTION VIOLATED	PENALTY
Oversize load		
1,000 to 3,000 pounds	66-7-411	\$ 50.00
Oversize load		
3,001 to 4,000 pounds	66-7-411	80.00
Oversize load		
4,001 to 5,000 pounds	66-7-411	150.00
Oversize load		
5,001 to 6,000 pounds	66-7-411	250.00
Oversize load		
6,001 to 7,000 pounds	66-7-411	400.00
Oversize load		
7,001 to 8,000 pounds	66-7-411	550.00
Oversize load		
8,001 to 9,000 pounds	66-7-411	700.00
Oversize load		
9,001 to 10,000 pounds	66-7-411	850.00
Oversize load		

over 10,000 pounds

66-7-411

1,000.00."

## Chapter 209 Section 14 Laws 2007

Section 14. Section 66-8-116.2 NMSA 1978 (being Laws 1989, Chapter 319, Section 13, as amended) is amended to read:

"66-8-116.2. PENALTY ASSESSMENT MISDEMEANORS--MOTOR CARRIER ACT.--As used in the Motor Vehicle Code and the Motor Carrier Act, "penalty assessment misdemeanor" means, in addition to the definitions of that term in Sections 66-8-116 and 66-8-116.1 NMSA 1978, violation of the following listed sections of the NMSA 1978 for which, except as provided in Subsection E of this section, the listed penalty is established:

### A. GENERAL

COMMON NAME OF OFFENSE ASSESSMENT	SECTION VIOLATED	PENALTY
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Failure to register

motor carrier

66-3-1.1

\$300.00

Failure to carry tax

identification

permit

65-1-26

300.00

Failure to comply with

public regulation

commission rules and

regulations

65-2A-7

50.00

Failure to

carry single state

registration receipt issued

by a base state

65-2A-7

50.00

Failure to register with



Inoperative tractor		
protection valve	65-3-9	100.00
Damaged or loose air		
compressor	65-3-12	100.00
Audible air leak at brake		
chamber	65-3-12	50.00
Defective safety devices--		
chains or hooks	65-3-9	100.00
Defective towing or coupling		
devices	65-3-9	100.00
Defective exhaust systems	65-3-9	30.00
Frame defects--trailers	65-3-12	100.00
Frame defects--other	65-3-9	100.00
Defective fuel systems	65-3-9	50.00
Missing or inoperative		
lamps	65-3-9	25.00
Missing lamps on projecting		
loads	65-3-9	50.00
Missing or inoperative		
turn signal	65-3-9	25.00
Unsafe loading	65-3-8	100.00
Possession of radar detector		
in commercial motor carrier		

vehicle	65-3-8	100.00
Possession of alcoholic beverage in commercial motor carrier vehicle	65-3-8	200.00
Excessive steering wheel play	65-3-9	100.00
Steering column defects	65-3-9	100.00
Steering box or steering system defects	65-3-9	100.00
Suspension system defects	65-3-9	50.00
Defective springs or spring assembly	65-3-9	50.00
Defective tires--steering axle	65-3-9	100.00
Defective tires--other axles	65-3-9	30.00
Defective wheels and rims	65-3-9	50.00
Defective or missing windshield wipers	65-3-9	30.00
Defective or inoperative emergency exit--bus	65-3-9	100.00.

#### C. DRIVER OUT-OF-SERVICE VIOLATIONS

COMMON NAME OF OFFENSE ASSESSMENT	SECTION VIOLATED	PENALTY
Driver's age	65-3-7	\$30.00

Driver not licensed for type of vehicle being operated	65-3-7	30.00
Failure to have valid commercial driver's license in possession	66-5-59	30.00
No waiver of physical disqualification in possession	65-3-7	30.00
Sickness or fatigue	65-3-8	100.00
Driver disqualification	65-3-7	500.00
Exceeding the 10-hour driving rule for passenger carrier transportation	65-3-11	100.00
Exceeding the 11-hour driving rule for property carrier transportation	65-3-11	100.00
Exceeding the 14-hour on duty rule for property carrier transportation	65-3-11	100.00
Exceeding the 15-hour on duty rule for passenger		

carrier transportation	65-3-11	100.00
Exceeding the 60 hours in 7		
days on duty rule	65-3-11	100.00
Exceeding the 70 hours in 8		
days on duty rule	65-3-11	100.00
False log book	65-3-11	100.00
No log book	65-3-11	100.00
No record for previous		
7 days	65-3-11	100.00.

#### D. HAZARDOUS MATERIALS OUT-OF-SERVICE VIOLATIONS

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY
ASSESSMENT		
Placarding violations	65-3-13	\$250.00
Cargo tank not meeting		
specifications	65-3-13	250.00
Internal valve operation		
violations	65-3-13	250.00
Hazardous materials		
packaging violations	65-3-13	250.00
Insecure load--hazardous		
materials	65-3-13	250.00
Shipping papers violations	65-3-13	30.00
Shipment of forbidden		
combination of hazardous		

materials	65-3-13	250.00
No hazardous waste manifest	65-3-13	30.00
Bulk packaging marking		
violations	65-3-13	30.00
Cargo tank marking violations	65-3-13	30.00.

E. Upon a second conviction for failure to stop at a port of entry or inspection station pursuant to Section 65-5-1 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)."

## **Chapter 209 Section 15 Laws 2007**

Section 15. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 496, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 210**

AN ACT

RELATING TO CONTROLLED SUBSTANCES; ALLOWING THE MEDICAL USE OF CANNABIS; ENACTING THE LYNN AND ERIN COMPASSIONATE USE ACT; AMENDING PROVISIONS OF THE CONTROLLED SUBSTANCES ACT; PROVIDING PENALTIES.

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

### **Chapter 210 Section 1 Laws 2007**

Section 1. SHORT TITLE.--Sections 1 through 7 of this act may be cited as the "Lynn and Erin Compassionate Use Act" in honor of Lynn Pierson and Erin Armstrong.

### **Chapter 210 Section 2 Laws 2007**

Section 2. PURPOSE OF ACT.--The purpose of the Lynn and Erin Compassionate Use Act is to allow the beneficial use of medical cannabis in a regulated system for alleviating symptoms caused by debilitating medical conditions and their medical treatments.

## **Chapter 210 Section 3 Laws 2007**

Section 3. DEFINITIONS.--As used in the Lynn and Erin Compassionate Use Act:

A. "adequate supply" means an amount of cannabis, in any form approved by the department, possessed by a qualified patient or collectively possessed by a qualified patient and the qualified patient's primary caregiver that is determined by rule of the department to be no more than reasonably necessary to ensure the uninterrupted availability of cannabis for a period of three months and that is derived solely from an intrastate source;

B. "debilitating medical condition" means:

- (1) cancer;
- (2) glaucoma;
- (3) multiple sclerosis;
- (4) damage to the nervous tissue of the spinal cord, with objective neurological indication of intractable spasticity;
- (5) epilepsy;
- (6) positive status for human immunodeficiency virus or acquired immune deficiency syndrome;
- (7) admitted into hospice care in accordance with rules promulgated by the department; or
- (8) any other medical condition, medical treatment or disease as approved by the department;

C. "department" means the department of health;

D. "licensed producer" means any person or association of persons within New Mexico that the department determines to be qualified to produce, possess, distribute and dispense cannabis pursuant to the Lynn and Erin Compassionate Use Act and that is licensed by the department;

E. "practitioner" means a person licensed in New Mexico to prescribe and administer drugs that are subject to the Controlled Substances Act;

F. "primary caregiver" means a resident of New Mexico who is at least eighteen years of age and who has been designated by the patient's practitioner as being necessary to take responsibility for managing the well-being of a qualified patient with respect to the medical use of cannabis pursuant to the provisions of the Lynn and Erin Compassionate Use Act;

G. "qualified patient" means a resident of New Mexico who has been diagnosed by a practitioner as having a debilitating medical condition and has received written certification and a registry identification card issued pursuant to the Lynn and Erin Compassionate Use Act; and

H. "written certification" means a statement in a patient's medical records or a statement signed by a patient's practitioner that, in the practitioner's professional opinion, the patient has a debilitating medical condition and the practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the patient. A written certification is not valid for more than one year from the date of issuance.

## **Chapter 210 Section 4 Laws 2007**

### **Section 4. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES FOR THE MEDICAL USE OF CANNABIS.--**

A. A qualified patient shall not be subject to arrest, prosecution or penalty in any manner for the possession of or the medical use of cannabis if the quantity of cannabis does not exceed an adequate supply.

B. A qualified patient's primary caregiver shall not be subject to arrest, prosecution or penalty in any manner for the possession of cannabis for medical use by the qualified patient if the quantity of cannabis does not exceed an adequate supply.

C. Subsection A of this section shall not apply to a qualified patient under the age of eighteen years, unless:

(1) the qualified patient's practitioner has explained the potential risks and benefits of the medical use of cannabis to the qualified patient and to a parent, guardian or person having legal custody of the qualified patient; and

(2) a parent, guardian or person having legal custody consents in writing to:

(a) allow the qualified patient's medical use of cannabis;

(b) serve as the qualified patient's primary caregiver; and

(c) control the dosage and the frequency of the medical use of cannabis by the qualified patient.

D. A qualified patient or a primary caregiver shall be granted the full legal protections provided in this section if the patient or caregiver is in possession of a registry identification card. If the qualified patient or primary caregiver is not in possession of a registry identification card, the patient or caregiver shall be given an opportunity to produce the registry identification card before any arrest or criminal charges or other penalties are initiated.

E. A practitioner shall not be subject to arrest or prosecution, penalized in any manner or denied any right or privilege for recommending the medical use of cannabis or providing written certification for the medical use of cannabis pursuant to the Lynn and Erin Compassionate Use Act.

F. A licensed producer shall not be subject to arrest, prosecution or penalty, in any manner, for the production, possession, distribution or dispensing of cannabis pursuant to the Lynn and Erin Compassionate Use Act.

G. Any property interest that is possessed, owned or used in connection with the medical use of cannabis, or acts incidental to such use, shall not be harmed, neglected, injured or destroyed while in the possession of state or local law enforcement officials. Any such property interest shall not be forfeited under any state or local law providing for the forfeiture of property except as provided in the Forfeiture Act. Cannabis, paraphernalia or other property seized from a qualified patient or primary caregiver in connection with the claimed medical use of cannabis shall be returned immediately upon the determination by a court or prosecutor that the qualified patient or primary caregiver is entitled to the protections of the provisions of the Lynn and Erin Compassionate Use Act, as may be evidenced by a failure to actively investigate the case, a decision not to prosecute, the dismissal of charges or acquittal.

H. A person shall not be subject to arrest or prosecution for a cannabis-related offense for simply being in the presence of the medical use of cannabis as permitted under the provisions of the Lynn and Erin Compassionate Use Act.

## **Chapter 210 Section 5 Laws 2007**

### **Section 5. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTIES.--**

A. Participation in a medical use of cannabis program by a qualified patient or primary caregiver does not relieve the qualified patient or primary caregiver from:

(1) criminal prosecution or civil penalties for activities not authorized in the Lynn and Erin Compassionate Use Act;

(2) liability for damages or criminal prosecution arising out of the operation of a vehicle while under the influence of cannabis; or

(3) criminal prosecution or civil penalty for possession or use of cannabis:

(a) in a school bus or public vehicle;

(b) on school grounds or property;

(c) in the workplace of the qualified patient's or primary caregiver's employment; or

(d) at a public park, recreation center, youth center or other public place.

B. A person who makes a fraudulent representation to a law enforcement officer about the person's participation in a medical use of cannabis program to avoid arrest or prosecution for a cannabis-related offense is guilty of a petty misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

C. If a licensed producer sells, distributes, dispenses or transfers cannabis to a person not approved by the department pursuant to the Lynn and Erin Compassionate Use Act or obtains or transports cannabis outside New Mexico in violation of federal law, the licensed producer shall be subject to arrest, prosecution and civil or criminal penalties pursuant to state law.

## **Chapter 210 Section 6 Laws 2007**

Section 6. ADVISORY BOARD CREATED--DUTIES.--The secretary of health shall establish an advisory board consisting of eight practitioners representing the fields of neurology, pain management, medical oncology, psychiatry, infectious disease, family medicine and gynecology. The practitioners shall be nationally board-certified in their area of specialty and knowledgeable about the medical use of cannabis. The members shall be chosen for appointment by the secretary from a list proposed by the New Mexico medical society. A quorum of the advisory board shall consist of three members. The advisory board shall:

A. review and recommend to the department for approval additional debilitating medical conditions that would benefit from the medical use of cannabis;

B. accept and review petitions to add medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis;

C. convene at least twice per year to conduct public hearings and to evaluate petitions, which shall be maintained as confidential personal health information, to add medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis;

D. issue recommendations concerning rules to be promulgated for the issuance of the registry identification cards; and

E. recommend quantities of cannabis that are necessary to constitute an adequate supply for qualified patients and primary caregivers.

## **Chapter 210 Section 7 Laws 2007**

### **Section 7. REGISTRY IDENTIFICATION CARDS--DEPARTMENT RULES--DUTIES.--**

A. No later than October 1, 2007, and after consultation with the advisory board, the department shall promulgate rules in accordance with the State Rules Act to implement the purpose of the Lynn and Erin Compassionate Use Act. The rules shall:

(1) govern the manner in which the department will consider applications for registry identification cards and for the renewal of identification cards for qualified patients and primary caregivers;

(2) define the amount of cannabis that is necessary to constitute an adequate supply, including amounts for topical treatments;

(3) identify criteria and set forth procedures for including additional medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis. Procedures shall include a petition process and shall allow for public comment and public hearings before the advisory board;

(4) set forth additional medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis as recommended by the advisory board;

(5) identify requirements for the licensure of producers and cannabis production facilities and set forth procedures to obtain licenses;

(6) develop a distribution system for medical cannabis that provides for:

(a) cannabis production facilities within New Mexico housed on secured grounds and operated by licensed producers; and

(b) distribution of medical cannabis to qualified patients or their primary caregivers to take place at locations that are designated by the department and that are not within three hundred feet of any school, church or daycare center;

(7) determine additional duties and responsibilities of the advisory board;  
and

(8) be revised and updated as necessary.

B. The department shall issue registry identification cards to a patient and to the primary caregiver for that patient, if any, who submit the following, in accordance with the department's rules:

(1) a written certification;

(2) the name, address and date of birth of the patient;

(3) the name, address and telephone number of the patient's practitioner;  
and

(4) the name, address and date of birth of the patient's primary caregiver, if any.

C. The department shall verify the information contained in an application submitted pursuant to Subsection B of this section and shall approve or deny an application within thirty days of receipt. The department may deny an application only if the applicant did not provide the information required pursuant to Subsection B of this section or if the department determines that the information provided is false. A person whose application has been denied shall not reapply for six months from the date of the denial unless otherwise authorized by the department.

D. The department shall issue a registry identification card within five days of approving an application, and a card shall expire one year after the date of issuance. A registry identification card shall contain:

(1) the name, address and date of birth of the qualified patient and primary caregiver, if any;

(2) the date of issuance and expiration date of the registry identification card; and

(3) other information that the department may require by rule.

E. A person who possesses a registry identification card shall notify the department of any change in the person's name, address, qualified patient's

practitioner, qualified patient's primary caregiver or change in status of the qualified patient's debilitating medical condition within ten days of the change.

F. Possession of or application for a registry identification card shall not constitute probable cause or give rise to reasonable suspicion for a governmental agency to search the person or property of the person possessing or applying for the card.

G. The department shall maintain a confidential file containing the names and addresses of the persons who have either applied for or received a registry identification card. Individual names on the list shall be confidential and not subject to disclosure, except:

(1) to authorized employees or agents of the department as necessary to perform the duties of the department pursuant to the provisions of the Lynn and Erin Compassionate Use Act;

(2) to authorized employees of state or local law enforcement agencies, but only for the purpose of verifying that a person is lawfully in possession of a registry identification card; or

(3) as provided in the federal Health Insurance Portability and Accountability Act of 1996.

## **Chapter 210 Section 8 Laws 2007**

Section 8. Section 30-31-6 NMSA 1978 (being Laws 1972, Chapter 84, Section 6, as amended) is amended to read:

"30-31-6. SCHEDULE I.--The following controlled substances are included in Schedule I:

A. any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically exempted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) acetylmethadol;

(2) allylprodine;

(3) alphacetylmethadol;

(4) alphameprodine;

(5) alphasubstituted methadol;

- (6) benzethidine;
- (7) betacetylmethadol;
- (8) betameprodine;
- (9) betamethadol;
- (10) betaprodine;
- (11) clonitazene;
- (12) dextromoramide;
- (13) dextrorphan;
- (14) diampromide;
- (15) diethylthiambutene;
- (16) dimenoxadol;
- (17) dimepheptanol;
- (18) dimethylthiambutene;
- (19) dioxaphetyl butyrate;
- (20) dipipanone;
- (21) ethylmethylthiambutene;
- (22) etonitazene;
- (23) etoxeridine;
- (24) furethidine;
- (25) hydroxypethidine;
- (26) ketobemidone;
- (27) levomoramide;
- (28) levophenacymorphan;

- (29) morpheridine;
- (30) noracymethadol;
- (31) norlevorphanol;
- (32) normethadone;
- (33) norpipanone;
- (34) phenadoxone;
- (35) phenampromide;
- (36) phenomorphan;
- (37) phenoperidine;
- (38) piritramide;
- (39) proheptazine;
- (40) properidine;
- (41) racemoramide; and
- (42) trimeperidine;

B. any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically exempted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) acetorphine;
- (2) acetyldihydrocodeine;
- (3) benzylmorphine;
- (4) codeine methylbromide;
- (5) codeine-N-oxide;
- (6) cyprenorphine;
- (7) desomorphine;

- (8) dihydromorphine;
- (9) etorphine;
- (10) heroin;
- (11) hydromorphinol;
- (12) methyl-desorphine;
- (13) methyl-dihydromorphine;
- (14) morphine methylbromide;
- (15) morphine methylsulfonate;
- (16) morphine-N-oxide;
- (17) myrophine;
- (18) nicocodeine;
- (19) nicomorphine;
- (20) normorphine;
- (21) pholcodine; and
- (22) thebacon;

C. any material, compound, mixture or preparation that contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically exempted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) 3,4-methylenedioxy amphetamine;
- (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- (3) 3,4,5-trimethoxy amphetamine;
- (4) bufotenine;
- (5) diethyltryptamine;
- (6) dimethyltryptamine;

- (7) 4-methyl-2,5-dimethoxy amphetamine;
- (8) ibogaine;
- (9) lysergic acid diethylamide;
- (10) marijuana;
- (11) mescaline;
- (12) peyote, except as otherwise provided in the Controlled Substances Act;
- (13) N-ethyl-3-piperidyl benzilate;
- (14) N-methyl-3-piperidyl benzilate;
- (15) psilocybin;
- (16) psilocyn;
- (17) tetrahydrocannabinols; and
- (18) hashish;

D. the enumeration of peyote as a controlled substance does not apply to the use of peyote in bona fide religious ceremonies by a bona fide religious organization, and members of the organization so using peyote are exempt from registration. Any person who manufactures peyote for or distributes peyote to the organization or its members shall comply with the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 and all other requirements of law;

E. the enumeration of marijuana, tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol as Schedule I controlled substances does not apply to the use of marijuana, tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol by certified patients pursuant to the Controlled Substances Therapeutic Research Act or by qualified patients pursuant to the provisions of the Lynn and Erin Compassionate Use Act; and

F. controlled substances added to Schedule I by rule adopted by the board pursuant to Section 30-31-3 NMSA 1978."

## **Chapter 210 Section 9 Laws 2007**

Section 9. Section 30-31-7 NMSA 1978 (being Laws 1972, Chapter 84, Section 7, as amended) is amended to read:

"30-31-7. SCHEDULE II.--

A. The following controlled substances are included in Schedule II:

(1) any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) opium and opiate, and any salt, compound, derivative or preparation of opium or opiate;

(b) any salt, compound, isomer, derivative or preparation thereof that is chemically equivalent or identical with any of the substances referred to in Subparagraph (a) of this paragraph, but not including the isoquinoline alkaloids of opium;

(c) opium poppy and poppy straw;

(d) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, derivative or preparation thereof that is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions that do not contain cocaine or ecgonine;

(e) marijuana, but only for the use by certified patients pursuant to the Controlled Substances Therapeutic Research Act or by qualified patients pursuant to the provisions of the Lynn and Erin Compassionate Use Act; and

(f) tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol, but only for the use by certified patients pursuant to the Controlled Substances Therapeutic Research Act or by qualified patients pursuant to the provisions of the Lynn and Erin Compassionate Use Act.

Marijuana, tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol shall be considered Schedule II controlled substances only for the purposes enumerated in the Controlled Substances Therapeutic Research Act or the Lynn and Erin Compassionate Use Act;

(2) any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(a) alphaprodine;

(b) anileridine;

- (c) bezitramide;
- (d) dihydrocodeine;
- (e) diphenoxylate;
- (f) fentanyl;
- (g) hydromorphone;
- (h) isomethadone;
- (i) levomethorphan;
- (j) levorphanol;
- (k) meperidine;
- (l) metazocine;
- (m) methadone;
- (n) methadone--intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (o) moramide--intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- (p) oxycodone;
- (q) pethidine;
- (r) pethidine--intermediate--A, 4-cyano-1-methyl-4-phenylpiperidine;
- (s) pethidine--intermediate--B, ethyl-4-phenyl-piperidine-4-carboxylate;
- (t) pethidine--intermediate--C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (u) phenazocine;
- (v) piminodine;
- (w) racemethorphan; and

(x) racemorphan;

(3) unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) amphetamine, its salts, optical isomers and salts of its optical isomers;

(b) phenmetrazine and its salts;

(c) methamphetamine, its salts, isomers and salts of isomers; and

(d) methylphenidate; and

(4) controlled substances added to Schedule II by rule adopted by the board pursuant to Section 30-31-3 NMSA 1978.

B. Where methadone is prescribed, administered or dispensed by a practitioner of a drug abuse rehabilitation program while acting in the course of the practitioner's professional practice, or otherwise lawfully obtained or possessed by a person, such person shall not possess such methadone beyond the date stamped or typed on the label of the container of the methadone, nor shall any person possess methadone except in the container in which it was originally administered or dispensed to such person, and such container shall include a label showing the name of the prescribing physician or practitioner, the identity of methadone, the name of the ultimate user, the date when the methadone is to be administered to or used or consumed by the named ultimate user shown on the label and a warning on the label of the methadone container that the ultimate user must use, consume or administer to the ultimate user the methadone in such container. Any person who violates this subsection is guilty of a felony and shall be punished by imprisonment for not less than one year nor more than five years, or by a fine of up to five thousand dollars (\$5,000), or both."

## **Chapter 210 Section 10 Laws 2007**

### **Section 10. TEMPORARY PROVISION.--**

A. During the period between July 1, 2007 and thirty days after the effective date of rules promulgated by the department of health pursuant to Subsection A of Section 7 of the Lynn and Erin Compassionate Use Act, a person who would be eligible to participate in the medical use of cannabis program as a qualified patient, but for the lack of effective rules concerning registry identification cards, licensed producers, cannabis production facilities, distribution system and adequate supply, may obtain a written certification from a practitioner and upon presentation of that certification to the department of health, the department shall issue a temporary certification for

participation in the program. The department of health shall maintain a list of all temporary certificates issued pursuant to this section.

B. A person possessing a temporary certificate and the person's primary caregiver are not subject to arrest, prosecution, civil or criminal penalty or denial of any right or privilege for possessing cannabis if the amount of cannabis possessed collectively is not more than the amount that is specified on the temporary certificate issued by the department of health.

C. A practitioner shall not be subject to arrest or prosecution, penalized in any manner or denied any right or privilege for recommending the medical use of cannabis or providing written certification for the medical use of cannabis pursuant to the Lynn and Erin Compassionate Use Act on or after July 1, 2007.

## **Chapter 210 Section 11 Laws 2007**

Section 11. SEVERABILITY.--If any part or application of the Lynn and Erin Compassionate Use Act is held invalid, the remainder or its application to other situations or persons shall not be affected. Failure to promulgate rules or implement any provision of the Lynn and Erin Compassionate Use Act shall not interfere with the remaining protections provided by that act.

## **Chapter 210 Section 12 Laws 2007**

Section 12. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Floor Substitute for

Senate Bill 523, as amended

Approved April 2, 2007

# **LAWS 2007, CHAPTER 211**

AN ACT

RELATING TO HEALTH INSURANCE; PROVIDING COVERAGE FOR MENTAL HEALTH BENEFITS NOT COVERED BY INDIVIDUAL HEALTH INSURANCE.

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

## **Chapter 211 Section 1 Laws 2007**

Section 1. Section 59A-54-12 NMSA 1978 (being Laws 1987, Chapter 154, Section 12, as amended by Laws 2005, Chapter 301, Section 6 and by Laws 2005, Chapter 305, Section 6) is amended to read:

"59A-54-12. ELIGIBILITY--POLICY PROVISIONS.--

A. Except as provided in Subsection B of this section, a person is eligible for a pool policy only if on the effective date of coverage or renewal of coverage the person is a New Mexico resident, and:

(1) is not eligible as an insured or covered dependent for any health plan that provides coverage for comprehensive major medical or comprehensive physician and hospital services;

(2) is currently paying a rate for a health plan that is higher than one hundred twenty-five percent of the pool's standard rate;

(3) has a mental health diagnosis and has individual health insurance coverage that does not include coverage for mental health services;

(4) has been rejected for coverage for comprehensive major medical or comprehensive physician and hospital services;

(5) is only eligible for a health plan with a rider, waiver or restrictive provision for that particular individual based on a specific condition;

(6) has a medical condition that is listed on the pool's prequalifying conditions;

(7) has as of the date the individual seeks coverage from the pool an aggregate of eighteen or more months of creditable coverage, the most recent of which was under a group health plan, governmental plan or church plan as defined in Subsections P, N and D, respectively, of Section 59A-23E-2 NMSA 1978, except, for the purposes of aggregating creditable coverage, a period of creditable coverage shall not be counted with respect to enrollment of an individual for coverage under the pool if, after that period and before the enrollment date, there was a sixty-three-day or longer period during all of which the individual was not covered under any creditable coverage; or

(8) is entitled to continuation coverage pursuant to Section 59A-23E-19 NMSA 1978.

B. Notwithstanding the provisions of Subsection A of this section:

(1) a person's eligibility for a policy issued under the Health Insurance Alliance Act shall not preclude a person from remaining on or purchasing a pool policy;

provided that a self-employed person who qualifies for an approved health plan under the Health Insurance Alliance Act by using a dependent as the second employee may choose a pool policy in lieu of the health plan under that act; and

(2) if a pool policyholder becomes eligible for any group health plan, the policyholder's pool coverage shall not be involuntarily terminated until any preexisting condition period imposed on the policyholder by the plan has been exhausted.

C. Coverage under a pool policy is in excess of and shall not duplicate coverage under any other form of health insurance.

D. A policyholder's newborn child or newly adopted child is automatically eligible for thirty-one consecutive calendar days of coverage for an additional premium.

E. Except for a person eligible as provided in Paragraph (7) of Subsection A of this section, a pool policy may contain provisions under which coverage is excluded during a six-month period following the effective date of coverage as to a given individual for preexisting conditions.

F. The preexisting condition exclusions described in Subsection E of this section shall be waived to the extent to which similar exclusions have been satisfied under any prior health insurance coverage that was involuntarily terminated, if the application for pool coverage is made not later than thirty-one days following the involuntary termination. In that case, coverage in the pool shall be effective from the date on which the prior coverage was terminated. This subsection does not prohibit preexisting conditions coverage in a pool policy that is more favorable to the insured than that specified in this subsection.

G. An individual is not eligible for coverage by the pool if:

(1) except as provided in Subsection I of this section, the individual is, at the time of application, eligible for medicare or medicaid that would provide coverage for amounts in excess of limited policies such as dread disease, cancer policies or hospital indemnity policies;

(2) the individual has voluntarily terminated coverage by the pool within the past twelve months and did not have other continuous coverage during that time, except that this paragraph shall not apply to an applicant who is a federally defined eligible individual;

(3) the individual is an inmate of a public institution or is eligible for public programs for which medical care is provided;

(4) the individual is eligible for coverage under a group health plan;

(5) the individual has health insurance coverage as defined in Subsection R of Section 59A-23E-2 NMSA 1978;

(6) the most recent coverages within the coverage period described in Paragraph (7) of Subsection A of this section were terminated as a result of nonpayment of premium or fraud; or

(7) the individual has been offered the option of continuation coverage under a federal COBRA continuation provision as defined in Subsection F of Section 59A-23E-2 NMSA 1978 or under a similar state program and he has elected the coverage and did not exhaust the continuation coverage under the provision or program, provided, however, that an unemployed former employee who has not exhausted COBRA coverage shall be eligible.

H. Any person whose health insurance coverage from a qualified state health policy with similar coverage is terminated because of nonresidency in another state may apply for coverage under the pool. If the coverage is applied for within thirty-one days after that termination and if premiums are paid for the entire coverage period, the effective date of the coverage shall be the date of termination of the previous coverage.

I. The board may issue a pool policy for individuals who:

(1) are enrolled in both Part A and Part B of medicare because of a disability; and

(2) except for the eligibility for medicare, would otherwise be eligible for coverage pursuant to the criteria of this section."

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Senate Bill 536, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 212**

### **AN ACT**

RELATING TO LIENS; EXEMPTING ORIGINAL CONTRACTORS FROM PRE-LIEN NOTICE REQUIREMENTS; ALLOWING ORIGINAL CONTRACTORS TO CANCEL LIENS; ALLOWING ORIGINAL CONTRACTORS TO DEPOSIT SECURITY FOR THE CANCELING OF LIENS; ALLOWING USE OF ARBITRATION TO ENFORCE LIENS; ADDRESSING CONTINGENT PAYMENT CLAUSES; REQUIRING CONTRACTORS TO DEFEND ALL LIEN CLAIMS EXCEPT THOSE DUE TO THE CONTRACTOR IN CASE OF OWNER NONPAYMENT; CLARIFYING FEES AND COSTS.

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

## **Chapter 212 Section 1 Laws 2007**

Section 1. Section 48-2-2.1 NMSA 1978 (being Laws 1990, Chapter 92, Section 2, as amended) is amended to read:

"48-2-2.1. PROCEDURE FOR PERFECTING CERTAIN MECHANICS' AND MATERIALMEN'S LIENS.--

A. The provisions of Subsections B through D of this section do not apply to claims of liens made on residential property containing four or fewer dwelling units, to claims of liens made by an original contractor or to claims of liens made by mechanics or materialmen who contract directly with the original contractor. For purposes of this section, "original contractor" means a contractor that contracts directly with the owner.

B. No lien of a mechanic or a materialman claimed in an amount of more than five thousand dollars (\$5,000) may be enforced by action or otherwise unless the lien claimant has given notice in writing of the claimant's right to claim a lien in the event of nonpayment and that notice was given not more than sixty days after initially furnishing work or materials, or both, by either certified mail, return receipt requested, facsimile with acknowledgement or personal delivery to:

(1) the owner or reputed owner of the property upon which the improvements are being constructed; or

(2) the original contractor, if any.

C. If the owner or the original contractor claims lack of notice as a defense to the enforcement of a lien described in Subsection B of this section, the owner or contractor shall show that upon the request of the mechanic or materialman that the owner or contractor furnished to the lien claimant not more than five days after such request was made:

(1) the original contractor's name, address and license number, if there is an original contractor on the project;

(2) the owner's name and address;

(3) a description of the property or a description sufficiently specific for actual identification of the property; and

(4) the name and address of any bonding company or other surety that is providing either a payment or performance bond for the project.

D. The notice required to be given by the claimant pursuant to the provisions of Subsection B of this section shall contain:

(1) a description of the property or a description sufficiently specific for actual identification of the property;

(2) the name, address and phone number, if any, of the claimant; and

(3) the name and address of the person with whom the claimant contracted or to whom the claimant furnished labor or materials, or both.

E. A person required by the provisions of Subsection B of this section to give notice to enforce the person's claim of lien may elect not to give the notice, but may give the required notice at a later time. If the person elects to do so, the lien shall apply only to the work performed or materials furnished on or after the date thirty days prior to the date the notice was given. The provisions of Subsections C and D of this section apply to any notice given under this subsection."

## **Chapter 212 Section 2 Laws 2007**

Section 2. Section 48-2-9 NMSA 1978 (being Laws 1975, Chapter 68, Section 1) is amended to read:

"48-2-9. PETITION TO CANCEL LIEN--SECURITY.--

A. The owner of any building, mining claim, improvement or structure subject to a lien under Sections

48-2-1 through 48-2-17 NMSA 1978 or an original contractor having a contract with that owner may petition the district court for the county in which the property or a part of it is located for an order canceling the lien.

B. Upon the filing of the petition, the district court judge shall examine the lien claimant's recorded demands and determine an amount sufficient to satisfy the recorded demands and any other damages, court costs or attorney fees that may be recovered by the lien claimant. Security, in the amount set by the judge and of a type approved by the judge, shall be deposited by the owner of the property or original contractor with the district court conditioned on the payment of any sum found to be validly due to the lien claimant. An owner or original contractor may not provide a single security for the cancellation of the lien of more than one claimant.

C. When the security is deposited under this section, the judge of the district court shall immediately issue an order canceling the lien and shall notify the county clerk with whom the lien was filed. Upon the recording of the order, the county clerk shall mark the filed lien as canceled. When an order is issued under this subsection, the claimant's lien attaches to the security and is enforceable as to the security in the district

court in which it is deposited to the same extent as any other lien provided for in Sections 48-2-1 through 48-2-17 NMSA 1978."

### **Chapter 212 Section 3 Laws 2007**

Section 3. Section 48-2-10 NMSA 1978 (being Laws 1880, Chapter 16, Section 9, as amended) is amended to read:

"48-2-10. LIMITATION OF ACTION TO ENFORCE.--No lien provided for in Sections 48-2-1 through 48-2-17 NMSA 1978 remains valid for a longer period than two years after the claim of lien has been filed unless proceedings have been commenced in a court of competent jurisdiction or in binding arbitration within that time to enforce the lien. A contingent payment clause in a contract shall not be construed as a waiver of the right to file and enforce a mechanic's or materialman's lien pursuant to Sections 48-2-1 through 48-2-17 NMSA 1978."

### **Chapter 212 Section 4 Laws 2007**

Section 4. Section 48-2-12 NMSA 1978 (being Laws 1880, Chapter 16, Section 12, as amended) is amended to read:

"48-2-12. CONTRACTOR LIABLE FOR LIENS OF SUBCONTRACTORS.--The contractor shall be entitled to recover upon a lien filed by the contractor only such amount as may be due to the contractor according to the terms of the contract, after deducting all claims of subcontractors under the contractor who have filed liens for work done and materials furnished, and during the pendency of the action, the owner may withhold from the contractor the amount of money for which the lien is filed unless the lien was asserted as a result of the owner's failure to pay the contractor for work done and materials furnished, and in case of judgment against the owner or the owner's property upon the lien, the owner shall be entitled to deduct from any amount due or to become due by the owner to the contractor the amount of the judgment. If the amount of the judgment exceeds the amount due by the owner to the contractor, or if the owner settles with the contractor in full, the owner shall be entitled to recover back from the contractor any amount paid by the owner, in excess of the contract price, and for which the contractor was originally the party liable."

### **Chapter 212 Section 5 Laws 2007**

Section 5. Section 48-2-14 NMSA 1978 (being Laws 1880, Chapter 16, Section 14, as amended) is amended to read:

"48-2-14. JOINDER OF ACTIONS--ATTORNEY FEES--COSTS.--Any number of persons claiming liens may join in the same action, and when separate actions are commenced, the court may consolidate them. A prevailing party in a dispute arising out of or relating to a lien action is entitled to recover from the other party the reasonable attorney fees, costs and expenses incurred by the prevailing party."

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Senate Bill 574, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 213**

AN ACT

RELATING TO TRADE PRACTICES; CHANGING THE NAME OF THE RETAINAGE ACT TO THE PROMPT PAYMENT ACT; ELIMINATING PROVISIONS OF CHAPTER 57, ARTICLE 28 NMSA 1978 CONCERNING RETAINAGE; PROHIBITING THE WITHHOLDING OF AMOUNTS DUE FOR WORK PERFORMED; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

### **Chapter 213 Section 1 Laws 2007**

Section 1. Section 57-28-1 NMSA 1978 (being Laws 2001, Chapter 68, Section 1) is amended to read:

"57-28-1. SHORT TITLE.--Chapter 57, Article 28 NMSA 1978 may be cited as the "Prompt Payment Act"."

### **Chapter 213 Section 2 Laws 2007**

Section 2. Section 57-28-2 NMSA 1978 (being Laws 2001, Chapter 68, Section 2) is amended to read:

"57-28-2. DEFINITIONS.--As used in the Prompt Payment Act:

A. "construction" means building, altering, repairing, installing or demolishing in the ordinary course of business any:

- (1) road, highway, bridge, parking area or related project;
- (2) building, stadium or other structure;
- (3) airport, subway or similar facility;
- (4) park, trail, athletic field, golf course or similar facility;
- (5) dam, reservoir, canal, ditch or similar facility;

(6) sewage or water treatment facility, power generating plant, pump station, natural gas compression station or similar facility;

(7) sewage, water, gas or other pipeline;

(8) transmission line;

(9) radio, television or other tower;

(10) water, oil or other storage tank;

(11) shaft, tunnel or other mining appurtenance;

(12) electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditions;

(13) air conditioning conduit, heating or other similar mechanical work;

(14) leveling or clearing land;

(15) excavating earth;

(16) drilling wells of any type, including seismographic shot holes or core drilling; and

(17) similar work, structures or installations;

B. "contractor" means a person performing construction through a contract with an owner;

C. "owner" means a person, local public body or state agency other than the department of transportation;

D. "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture or similar legal entity; and

E. "subcontractor" means a person performing construction for the owner not through a contract with the owner."

### **Chapter 213 Section 3 Laws 2007**

Section 3. Section 57-28-3 NMSA 1978 (being Laws 2001, Chapter 68, Section 3) is amended to read:

"57-28-3. APPLICABILITY OF ACT.--The provisions of the Prompt Payment Act do not apply to construction contracts for residential property containing four or fewer dwelling units."

## **Chapter 213 Section 4 Laws 2007**

Section 4. Section 57-28-5 NMSA 1978 (being Laws 2001, Chapter 68, Section 5) is amended to read:

"57-28-5. PAYMENTS--PROMPT PAY REQUIRED--WITHHOLDING PROHIBITED.--

A. Except as provided in Subsection B of this section, all construction contracts shall provide that payment for amounts due shall be paid within twenty-one days after the owner receives an undisputed request for payment. Payment by the owner to the contractor may be made by first-class mailing, electronic funds transfer or by hand delivery of the undisputed amount of a pay request based on work completed or service provided under the contract. If the owner fails to pay the contractor within twenty-one days after receipt of an undisputed request for payment, the owner shall pay interest to the contractor beginning on the twenty-second day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until the payment is issued. If an owner receives an improperly completed invoice, the owner shall notify the sender of the invoice within seven days of receipt in what way the invoice is improperly completed, and the owner has no further duty to pay on the improperly completed invoice until it is resubmitted as complete.

B. A local public body may make payment within forty-five days after submission of an undisputed request for payment when grant money is a source of funding, if:

(1) the construction contract specifically provides in a clear and conspicuous manner for a payment later than twenty-one days after submission of an undisputed request for payment; and

(2) the following legend or substantially similar language setting forth the specified number of days appears in clear and conspicuous type on each page of the plans, including bid plans and construction plans:

"Notice of Extended Payment Provision

This contract allows the owner to make payment within \_\_\_\_\_ days after submission of an undisputed request for payment."

C. All construction contracts shall provide that contractors and subcontractors make prompt payment to their subcontractors and suppliers for amounts owed for work performed on the construction project within seven days after receipt of payment from the owner, contractor or subcontractor. If the contractor or subcontractor fails to pay the

contractor's or subcontractor's subcontractor and suppliers by first-class mail or hand delivery within seven days of receipt of payment, the contractor or subcontractor shall pay interest to the subcontractors and suppliers beginning on the eighth day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until payment is issued. These payment provisions apply to all tiers of contractors, subcontractors and suppliers.

D. A creditor shall not collect, enforce a security interest against, garnish or levy execution on those progress payments or other payments that are owed by an owner, contractor or subcontractor to a person, or the owner's contractor's or subcontractor's surety, who has furnished labor or material pursuant to a construction contract.

E. When making payments, an owner, contractor or subcontractor shall not retain, withhold, hold back or in any other manner not pay amounts owed for work performed."

## **Chapter 213 Section 5 Laws 2007**

Section 5. Section 57-28-11 NMSA 1978 (being Laws 2001, Chapter 68, Section 11) is amended to read:

"57-28-11. ATTORNEY FEES.--In an action to enforce the provisions of the Prompt Payment Act, the court may award court costs and reasonable attorney fees."

## **Chapter 213 Section 6 Laws 2007**

Section 6. REPEAL.--Sections 57-28-4, 57-28-6, 57-28-9 and 57-28-10 NMSA 1978 (being Laws 2001, Chapter 68, Sections 4, 6, 9 and 10) are repealed.

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Senate Corporations and Transportation

Committee Substitute for Senate Bill 604

Approved April 2, 2007

# **LAWS 2007, CHAPTER 214**

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING PROCEDURES FOR MEETING THE NEEDS OF STATE-CHARTERED AND LOCALLY CHARTERED CHARTER SCHOOLS FOR ADEQUATE FACILITIES; CREATING A FUND.

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

## **Chapter 214 Section 1 Laws 2007**

Section 1. A new section of the Public School Capital Outlay Act, Section 22-24-6.1 NMSA 1978, is enacted to read:

"22-24-6.1. PROCEDURES FOR A STATE-CHARTERED CHARTER SCHOOL.-  
-All of the provisions of the Public School Capital Outlay Act apply to an application by a state-chartered charter school for grant assistance for a capital project except:

A. the portion of the cost of the project to be paid from the fund shall be calculated pursuant to Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978 using data from the school district in which the state-chartered charter school is located;

B. in calculating a reduction pursuant to Paragraph (6) of Subsection B of Section 22-24-5 NMSA 1978, the amount to be used in Subparagraph (a) of that paragraph shall equal the total of all legislative appropriations made after January 1, 2007 for nonoperating expenses either directly to the charter school or to another governmental entity for the purpose of passing the money through directly to the charter school, regardless of whether the charter school was a state-chartered charter school at the time of the appropriation or later opted to become a state-chartered charter school, except that the total shall not include any such appropriation if, before the charter school became a state-chartered charter school, the appropriation was previously used to calculate a reduction pursuant to Paragraph (6) of Subsection B of Section 22-24-5 NMSA 1978; and

C. if the council determines that the state-chartered charter school does not have the resources to pay all or a portion of the total cost of the capital outlay project that is not funded with grant assistance from the fund, to the extent that money is available in the charter school capital outlay fund, the council shall make an award from that fund for the remaining amount necessary to pay for the project. The council may establish, by rule, a procedure for determining the amount of resources available to the charter school and the amount needed from the charter school capital outlay fund."

## **Chapter 214 Section 2 Laws 2007**

Section 2. A new section of the Public School Capital Outlay Act, Section 22-24-6.2 NMSA 1978, is enacted to read:

"22-24-6.2. PUBLIC FACILITIES FOR CHARTER SCHOOLS.--

A. The council shall develop a program for assisting charter schools to be located in public buildings or in buildings being acquired by charter schools pursuant to a lease purchase agreement.

B. A locally chartered or state-chartered charter school, desiring assistance pursuant to this section, shall make application to the council for a grant. The application shall include:

(1) a summary of the efforts that have been made by the charter school to be located in a public facility;

(2) an estimate of the costs necessary to bring the public facilities up to the statewide adequacy standards; and

(3) such other information as required by rule of the council.

C. The public school facilities authority shall review the information submitted by the charter school and rank the application with similar applications pursuant to a methodology adopted by the council.

D. After a public hearing and to the extent that money is available in the charter school capital outlay fund for such purposes, the council shall approve grants from the fund on the established priority basis.

E. An award made pursuant to this section shall not be considered when calculating an amount to offset grants to a school district or state-chartered charter school pursuant to Paragraph (6) of Subsection B of Section 22-24-5 NMSA 1978 or Subsection B of Section 22-24-6.1 NMSA 1978."

## **Chapter 214 Section 3 Laws 2007**

Section 3. A new section of the Public School Capital Outlay Act is enacted to read:

"CHARTER SCHOOL CAPITAL OUTLAY FUND.--

A. The "charter school capital outlay fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year. Money in the fund is appropriated to the council for the purposes of making grants pursuant to Subsection B of this section. Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the director of the public school facilities authority.

B. Balances in the charter school capital outlay fund shall be used for the following purposes and, to the extent money is available in the fund, in the following order:

(1) for making grants to state-chartered charter schools pursuant to Subsection C of Section 22-24-6.1 NMSA 1978 to assist with the local match needed for an approved public school capital outlay project; and

(2) if the council determines that money in the fund is not needed for grants pursuant to Paragraph (1) of this subsection, remaining balances in the fund may be used for providing assistance to charter schools pursuant to Section 22-24-6.2 NMSA 1978."

## **Chapter 214 Section 4 Laws 2007**

Section 4. DELAYED REPEAL--REVERSION OF FUND

BALANCES.--

A. On July 1, 2012, Section 22-24-6.2 NMSA 1978, as enacted by Section 2 of this act, and Section 3 of this act are repealed.

B. Upon the repeal of Section 3 of this act, the proportion of the unencumbered balance of the charter school capital outlay fund that is attributable to proceeds of severance tax bonds shall revert to the severance tax bonding fund and the remaining unencumbered balance shall revert to the general fund.

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Senate Bill 634, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 215**

AN ACT

RELATING TO PUBLIC FINANCE; INCREASING THE AUTHORIZED AMOUNT OF REVENUE BONDS FOR THE CANCER TREATMENT CENTER AT THE GILA REGIONAL MEDICAL CENTER; MAKING AN APPROPRIATION.

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

## **Chapter 215 Section 1 Laws 2007**

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

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

A. The New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act for a term not exceeding twenty years in an amount not exceeding three million dollars (\$3,000,000) for the purpose of designing, constructing, equipping and furnishing additions and improvements to a regional cancer treatment center at the Gila regional medical center in Grant county and subsequently rural cancer treatment facilities in class B counties.

B. The authority may issue and sell revenue bonds authorized by this section when the chair of the board of county commissioners of Grant county certifies the need for issuance of the bonds. The net proceeds from the sale of the bonds are appropriated to the local government division of the department of finance and administration for the purposes described in Subsection A of this section.

C. The cigarette tax proceeds distributed to the authority pursuant to Subsection H of Section 7-1-6.11 NMSA 1978 shall be pledged irrevocably for the payment of the principal, interest, premiums and related expenses on the bonds and for payment of the expenses incurred by the authority related to the issuance, sale and administration of the bonds.

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

E. Upon payment of all principal, interest and other expenses or obligations related to the bonds, the authority shall certify to the secretary of taxation and revenue that all obligations for the bonds issued pursuant to this section have been fully discharged and shall direct the secretary of taxation and revenue to cease distributing cigarette tax proceeds to the authority pursuant to Subsection H of Section 7-1-6.11 NMSA 1978 and to distribute those cigarette tax proceeds to the general fund.

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 additionally secure the revenue bonds issued pursuant to this section by a pledge of money in the public project revolving fund with a lien priority on the money in the public project revolving fund as determined by the authority.

H. The authority may purchase revenue bonds issued pursuant to this section with money in the public project revolving fund pursuant to the provisions of Section 6-21-6 NMSA 1978."

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Senate Bill 640

Approved April 2, 2007

## **LAWS 2007, CHAPTER 216**

AN ACT

RELATING TO ANIMALS; REQUIRING TESTS OF CONFORMATION, HISTORY AND DEOXYRIBONUCLEIC ACID, WHEN WILD HORSES ARE CAPTURED; REQUIRING SPANISH COLONIAL HORSES TO BE RELOCATED TO HORSE PRESERVES; ALLOWING EUTHANASIA; ALLOWING FOR ADOPTION; PROVIDING FOR THE CONTROL OF WILD HORSE POPULATIONS BY MEANS OF BIRTH CONTROL.

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

### **Chapter 216 Section 1 Laws 2007**

Section 1. WILD HORSES--CONFORMATION, HISTORY AND DEOXYRIBONUCLEIC ACID TESTING--SPANISH COLONIAL HORSES--BIRTH CONTROL.--

A. As used in this section:

(1) "public land" does not include federal land controlled by the bureau of land management, the forest service or state trust land controlled by the state land office;

(2) "range" means the amount of land necessary to sustain a herd of wild horses, which does not exceed its known territorial limits;

(3) "Spanish colonial horse" means a wild horse that is descended from horses of the Spanish colonial period; and

(4) "wild horse" means an unclaimed horse on public land that is not an stray.

B. A wild horse that is captured on public land shall have its conformation, history and deoxyribonucleic acid tested to determine if it is a Spanish colonial horse. If it is a Spanish colonial horse, the wild horse shall be relocated to a state or private wild horse preserve created and maintained for the purpose of protecting Spanish colonial horses. If it is not a Spanish colonial horse, it shall be returned to the public land, relocated to a public or private wild horse preserve or put up for adoption by the agency on whose land the wild horse was captured.

C. If the mammal division of the museum of southwestern biology at the university of New Mexico determines that a wild horse herd exceeds the number of horses that is necessary for preserving the genetic stock of the herd and for preserving and maintaining the range, it may cause control of the wild horse population through the use of birth control and may cause excess horses to be:

(1) humanely captured and relocated to other public land or to a public or private wild horse preserve;

(2) adopted by a qualified person for private maintenance; or

(3) euthanized; provided that this option applies only to wild horses that are determined by a veterinarian to be crippled or otherwise unhealthy.

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Senate Bill 655, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 217**

### **AN ACT**

RELATING TO GAMING; DEFINING TECHNICIANS THAT REPAIR AND SERVICE GAMING DEVICES OR ASSOCIATED EQUIPMENT; TRANSFERRING RESPONSIBILITY FOR APPROVAL OF TECHNICIANS TO THE GAMING CONTROL BOARD FROM MANUFACTURER LICENSEES; DECLARING AN EMERGENCY.

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

### **Chapter 217 Section 1 Laws 2007**

Section 1. Section 60-2E-3 NMSA 1978 (being Laws 1997, Chapter 190, Section 5, as amended) is amended to read:

"60-2E-3. DEFINITIONS.--As used in the Gaming Control Act:

A. "affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with a specified person;

B. "affiliated company" means a company that:

(1) controls, is controlled by or is under common control with a company licensee; and

(2) is involved in gaming activities or involved in the ownership of property on which gaming is conducted;

C. "applicant" means a person who has applied for a license or for approval of an act or transaction for which approval is required or allowed pursuant to the provisions of the Gaming Control Act;

D. "application" means a request for the issuance of a license or for approval of an act or transaction for which approval is required or allowed pursuant to the provisions of the Gaming Control Act, but "application" does not include a supplemental form or information that may be required with the application;

E. "associated equipment" means equipment or a mechanical, electromechanical or electronic contrivance, component or machine used in connection with gaming activity;

F. "board" means the gaming control board;

G. "certification" means a notice of approval by the board of a person required to be certified by the board;

H. "company" means a corporation, partnership, limited partnership, trust, association, joint stock company, joint venture, limited liability company or other form of business organization that is not a natural person; "company" does not mean a nonprofit organization;

I. "distributor" means a person who supplies gaming devices to a gaming operator but does not manufacture gaming devices;

J. "equity security" means an interest in a company that is evidenced by:

(1) voting stock or similar security;

(2) a security convertible into voting stock or similar security, with or without consideration, or a security carrying a warrant or right to subscribe to or purchase voting stock or similar security;

(3) a warrant or right to subscribe to or purchase voting stock or similar security; or

(4) a security having a direct or indirect participation in the profits of the issuer;

K. "executive director" means the chief administrative officer appointed by the board pursuant to Section 60-2E-7 NMSA 1978;

L. "finding of suitability" means a certification of approval issued by the board permitting a person to be involved directly or indirectly with a licensee, relating only to the specified involvement for which it is made;

M. "game" means an activity in which, upon payment of consideration, a player receives a prize or other thing of value, the award of which is determined by chance even though accompanied by some skill; "game" does not include an activity played in a private residence in which no person makes money for operating the activity except through winnings as a player;

N. "gaming" means offering a game for play;

O. "gaming activity" means an endeavor associated with the manufacture or distribution of gaming devices or the conduct of gaming;

P. "gaming device" means associated equipment or a gaming machine and includes a system for processing information that can alter the normal criteria of random selection that affects the operation of a game or determines the outcome of a game;

Q. "gaming employee" means a person connected directly with a gaming activity; "gaming employee" does not include:

(1) bartenders, cocktail servers or other persons engaged solely in preparing or serving food or beverages;

(2) secretarial or janitorial personnel;

(3) stage, sound and light technicians; or

(4) other nongaming personnel;

R. "gaming establishment" means the premises on or in which gaming is conducted;

S. "gaming machine" means a mechanical, electromechanical or electronic contrivance or machine that, upon insertion of a coin, token or similar object, or upon payment of any consideration, is available to play or operate a game, whether the payoff is made automatically from the machine or in any other manner;

T. "gaming operator" means a person who conducts gaming;

U. "holding company" means a company that directly or indirectly owns or has the power or right to control a company that is an applicant or licensee, but a company that does not have a beneficial ownership of more than ten percent of the equity securities of a publicly traded corporation is not a holding company;

V. "immediate family" means natural persons who are related to a specified natural person by affinity or consanguinity in the first through the third degree;

W. "independent administrator" means a person who administers an annuity, who is not associated in any manner with the gaming operator licensee for which the annuity was purchased and is in no way associated with the person who will be receiving the annuity;

X. "institutional investor" means a state or federal government pension plan or a person that meets the requirements of a qualified institutional buyer as defined in Rule 144A of the federal Securities Act of 1933, and is:

(1) a bank as defined in Section 3(a)(6) of the federal Securities Exchange Act of 1934;

(2) an insurance company as defined in Section 2(a)(17) of the federal Investment Company Act of 1940;

(3) an investment company registered under Section 8 of the federal Investment Company Act of 1940;

(4) an investment adviser registered under Section 203 of the federal Investment Advisers Act of 1940;

(5) collective trust funds as defined in Section 3(c)(11) of the federal Investment Company Act of 1940;

(6) an employee benefit plan or pension fund that is subject to the federal Employee Retirement Income Security Act of 1974, excluding an employee benefit plan or pension fund sponsored by a publicly traded corporation registered with the board; or

(7) a group comprised entirely of persons specified in Paragraphs (1) through (6) of this subsection;

Y. "intermediary company" means a company that:

(1) is a holding company with respect to a company that is an applicant or licensee; and

(2) is a subsidiary with respect to any holding company;

Z. "key executive" means an executive of a licensee or other person having the power to exercise significant influence over decisions concerning any part of the licensed operations of the licensee or whose compensation exceeds an amount established by the board in a rule;

AA. "license" means an authorization required by the board for engaging in gaming activities;

BB. "licensee" means a person to whom a valid license has been issued;

CC. "manufacturer" means a person who manufactures, fabricates, assembles, produces, programs or makes modifications to any gaming device for use or play in New Mexico or for sale, lease or distribution outside New Mexico from any location within New Mexico;

DD. "net take" means the total of the following, less the total of all cash paid out as losses to winning patrons and those amounts paid to purchase annuities to fund losses paid to winning patrons over several years by independent administrators:

(1) cash received from patrons for playing a game;

(2) cash received in payment for credit extended by a licensee to a patron for playing a game; and

(3) compensation received for conducting a game in which the licensee is not a party to a wager;

EE. "nonprofit organization" means:

(1) a bona fide chartered or incorporated branch, lodge, order or association, in existence in New Mexico prior to January 1, 1997, of a fraternal organization that is described in Section 501(c)(8) or (10) of the federal Internal Revenue Code of 1986 and that is exempt from federal income taxation pursuant to Section 501(a) of that code; or

(2) a bona fide chartered or incorporated post, auxiliary unit or society of, or a trust or foundation for the post or auxiliary unit, in existence in New Mexico prior to January 1, 1997, of a veterans' organization that is described in Section 501(c)(19) or (23) of the federal Internal Revenue Code of 1986 and that is exempt from federal income taxation pursuant to Section 501(a) of that code;

FF. "person" means a legal entity;

GG. "premises" means land, together with all buildings, improvements and personal property located on the land;

HH. "progressive jackpot" means a prize that increases over time or as gaming machines that are linked to a progressive system are played and upon conditions established by the board may be paid by an annuity;

II. "public post-secondary educational institution" means an institution designated in Article 12, Section 11 of the constitution of New Mexico and an institution designated in Chapter 21, Articles 13, 14 and 16 NMSA 1978;

JJ. "progressive system" means one or more gaming machines linked to one or more common progressive jackpots;

KK. "publicly traded corporation" means a corporation that:

(1) has one or more classes of securities registered pursuant to the securities laws of the United States or New Mexico;

(2) is an issuer subject to the securities laws of the United States or New Mexico; or

(3) has one or more classes of securities registered or is an issuer pursuant to applicable foreign laws that, the board finds, provide protection for institutional investors that is comparable to or greater than the stricter of the securities laws of the United States or New Mexico;

LL. "registration" means a board action that authorizes a company to be a holding company with respect to a company that holds or applies for a license or that relates to other persons required to be registered pursuant to the Gaming Control Act;

MM. "subsidiary" means a company, all or a part of whose outstanding equity securities are owned, subject to a power or right of control or held, with power to vote, by a holding company or intermediary company;

NN. "technician" means a person approved by the board to repair and service gaming devices or associated equipment but who is prohibited from programming gaming devices; and

OO. "work permit" means a card, certificate or permit issued by the board, whether denominated as a work permit, registration card or otherwise, authorizing the employment of the holder as a gaming employee."

## **Chapter 217 Section 2 Laws 2007**

Section 2. Section 60-2E-13 NMSA 1978 (being Laws 1997, Chapter 190, Section 15, as amended) is amended to read:

"60-2E-13. ACTIVITIES REQUIRING LICENSING.--

A. A person shall not conduct gaming unless the person is licensed as a gaming operator.

B. A person shall not sell, supply or distribute a gaming device or associated equipment for use or play in this state or for use or play outside of this state from a location within this state unless the person is licensed as a distributor or manufacturer, but a gaming operator licensee may sell or trade in a gaming device or associated equipment to a gaming operator licensee, distributor licensee or manufacturer licensee.

C. Except as provided in Subsection D of this section, a person shall not manufacture, fabricate, assemble, program or make modifications to a gaming device or associated equipment for use or play in this state or for use or play outside of this state from any location within this state unless the person is a manufacturer licensee. A manufacturer licensee may sell, supply or distribute only the gaming devices or associated equipment that the manufacturer licensee manufactures, fabricates, assembles, programs or modifies.

D. Upon receiving a written request from a person who manufactures associated equipment, the board may waive the requirement for a manufacturer's license on the terms and conditions the board deems necessary as long as the waiver is consistent with the purpose of the Gaming Control Act.

E. Except as provided in Section 60-2E-13.1 NMSA 1978, a gaming operator licensee or a person other than a manufacturer licensee or distributor licensee shall not possess an unlicensed or illegal gaming device or possess or control a place where there is an unlicensed or illegal gaming device. Any unlicensed or illegal gaming device, except a gaming machine in the possession of a licensee while awaiting transfer to a gaming operator licensee for licensure of the machine, or as provided in Section 60-2E-13.1 NMSA 1978, is subject to seizure and forfeiture pursuant to Section 30-19-10 NMSA 1978.

F. A person shall not service or repair a gaming device or associated equipment unless the person is licensed as a manufacturer, is employed by a manufacturer licensee or is a technician approved by the board and employed by a distributor licensee or a gaming operator licensee.

G. A person shall not engage in an activity for which the board requires a license or permit without obtaining the license or permit.

H. Except as provided in Subsections B and D of this section, a person shall not purchase, lease or acquire possession of a gaming device or associated equipment except from a distributor licensee or manufacturer licensee.

I. A distributor licensee may receive a percentage of the amount wagered, the net take or other measure related to the operation of a gaming machine as a payment pursuant to a lease or other arrangement for furnishing a gaming machine, but the board shall adopt a regulation setting the maximum allowable percentage."

## **Chapter 217 Section 3 Laws 2007**

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 740

with emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 218**

AN ACT

RELATING TO INSURANCE; REQUIRING INSURANCE COVERAGE FOR GENERAL ANESTHESIA AND HOSPITALIZATION FOR DENTAL SURGERY.

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

### **Chapter 218 Section 1 Laws 2007**

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

"GENERAL ANESTHESIA AND HOSPITALIZATION FOR DENTAL SURGERY.-

-

A. Group health care coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act shall provide coverage for hospitalization and general anesthesia provided in a hospital or ambulatory surgical center for dental surgery for the following:

(1) insureds exhibiting physical, intellectual or medically compromising conditions for which dental treatment under local anesthesia, with or without additional adjunctive techniques and modalities, cannot be expected to provide a successful result and for which dental treatment under general anesthesia can be expected to produce superior results;

(2) insureds for whom local anesthesia is ineffective because of acute infection, anatomic variation or allergy;

(3) insured children or adolescents who are extremely uncooperative, fearful, anxious or uncommunicative with dental needs of such magnitude that treatment should not be postponed or deferred and for whom lack of treatment can be expected to result in dental or oral pain or infection, loss of teeth or other increased oral or dental morbidity;

(4) insureds with extensive oral-facial or dental trauma for which treatment under local anesthesia would be ineffective or compromised; or

(5) other procedures for which hospitalization or general anesthesia in a hospital or ambulatory surgical center is medically necessary.

B. The provisions of this section do not apply to short-term travel, accident-only or limited or specified disease policies.

C. Coverage for dental surgery may be subject to copayments, deductibles and coinsurance subject to network and prior authorization requirements consistent with those imposed on other benefits under the same group health care coverage, including any form of self-insurance."

## **Chapter 218 Section 2 Laws 2007**

Section 2. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

"GENERAL ANESTHESIA AND HOSPITALIZATION FOR DENTAL SURGERY.-

-

A. An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall provide coverage for hospitalization and general anesthesia provided in a hospital or ambulatory surgical center for dental surgery for the following:

(1) insureds exhibiting physical, intellectual or medically compromising conditions for which dental treatment under local anesthesia, with or without additional adjunctive techniques and modalities, cannot be expected to provide a successful result and for which dental treatment under general anesthesia can be expected to produce superior results;

(2) insureds for whom local anesthesia is ineffective because of acute infection, anatomic variation or allergy;

(3) insured children or adolescents who are extremely uncooperative, fearful, anxious or uncommunicative with dental needs of such magnitude that treatment should not be postponed or deferred and for whom lack of treatment can be expected to result in dental or oral pain or infection, loss of teeth or other increased oral or dental morbidity;

(4) insureds with extensive oral-facial or dental trauma for which treatment under local anesthesia would be ineffective or compromised; or

(5) other procedures for which hospitalization or general anesthesia in a hospital or ambulatory surgical center is medically necessary.

B. The provisions of this section do not apply to short-term travel, accident-only or limited or specified disease policies.

C. Coverage for dental surgery may be subject to copayments, deductibles and coinsurance subject to network and prior authorization requirements consistent with those imposed on other benefits under the same policy, plan or certificate."

## **Chapter 218 Section 3 Laws 2007**

Section 3. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"GENERAL ANESTHESIA AND HOSPITALIZATION FOR DENTAL SURGERY.-

A. A blanket or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall provide coverage for hospitalization and general anesthesia provided in a hospital or ambulatory surgical center for dental surgery for the following:

(1) insureds exhibiting physical, intellectual or medically compromising conditions for which dental treatment under local anesthesia, with or without additional adjunctive techniques and modalities, cannot be expected to provide a successful result and for which dental treatment under general anesthesia can be expected to produce superior results;

(2) insureds for whom local anesthesia is ineffective because of acute infection, anatomic variation or allergy;

(3) insured children or adolescents who are extremely uncooperative, fearful, anxious or uncommunicative with dental needs of such magnitude that treatment should not be postponed or deferred and for whom lack of treatment can be expected to result in dental or oral pain or infection, loss of teeth or other increased oral or dental morbidity;

(4) insureds with extensive oral-facial or dental trauma for which treatment under local anesthesia would be ineffective or compromised; or

(5) other procedures for which hospitalization or general anesthesia in a hospital or ambulatory surgical center is medically necessary.

B. The provisions of this section do not apply to short-term travel, accident-only or limited or specified disease policies.

C. Coverage for dental surgery may be subject to copayments, deductibles and coinsurance subject to network and prior authorization requirements consistent with those imposed on other benefits under the same policy, plan or certificate."

## **Chapter 218 Section 4 Laws 2007**

Section 4. A new section of Chapter 59A, Article 46 NMSA 1978 is enacted to read:

"GENERAL ANESTHESIA AND HOSPITALIZATION FOR DENTAL SURGERY.-

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A. An individual or group health maintenance organization contract delivered, issued for delivery or renewed in this state shall provide coverage for hospitalization and general anesthesia provided in a hospital or ambulatory surgical center for dental surgery for the following:

(1) insureds exhibiting physical, intellectual or medically compromising conditions for which dental treatment under local anesthesia, with or without additional adjunctive techniques and modalities, cannot be expected to provide a successful result and for which dental treatment under general anesthesia can be expected to produce superior results;

(2) insureds for whom local anesthesia is ineffective because of acute infection, anatomic variation or allergy;

(3) insured children or adolescents who are extremely uncooperative, fearful, anxious or uncommunicative with dental needs of such magnitude that treatment should not be postponed or deferred and for whom lack of treatment can be expected to result in dental or oral pain or infection, loss of teeth or other increased oral or dental morbidity;

(4) insureds with extensive oral-facial or dental trauma for which treatment under local anesthesia would be ineffective or compromised; or

(5) other procedures for which hospitalization or general anesthesia in a hospital or ambulatory surgical center is medically necessary.

B. The provisions of this section do not apply to short-term travel, accident-only or limited or specified disease policies.

C. Coverage for dental surgery may be subject to copayments, deductibles and coinsurance subject to network and prior authorization requirements consistent with those imposed on other benefits under the same policy, plan or certificate."

## **Chapter 218 Section 5 Laws 2007**

Section 5. A new section of Chapter 59A, Article 47 NMSA 1978 is enacted to read:

"GENERAL ANESTHESIA AND HOSPITALIZATION FOR DENTAL SURGERY.-

A. An individual or group health insurance policy, health care plan or certificate of health insurance delivered or issued for delivery in this state shall provide coverage for hospitalization and general anesthesia provided in a hospital or ambulatory surgical center for dental surgery for the following:

(1) insureds exhibiting physical, intellectual or medically compromising conditions for which dental treatment under local anesthesia, with or without additional adjunctive techniques and modalities, cannot be expected to provide a successful result and for which dental treatment under general anesthesia can be expected to produce superior results;

(2) insureds for whom local anesthesia is ineffective because of acute infection, anatomic variation or allergy;

(3) insured children or adolescents who are extremely uncooperative, fearful, anxious or uncommunicative with dental needs of such magnitude that treatment should not be postponed or deferred and for whom lack of treatment can be expected to result in dental or oral pain or infection, loss of teeth or other increased oral or dental morbidity;

(4) insureds with extensive oral-facial or dental trauma for which treatment under local anesthesia would be ineffective or compromised; or

(5) other procedures for which hospitalization or general anesthesia in a hospital or ambulatory surgical center is medically necessary.

B. The provisions of this section do not apply to short-term travel, accident-only or limited or specified disease policies.

C. Coverage for dental surgery may be subject to copayments, deductibles and coinsurance subject to network and prior authorization requirements consistent with those imposed on other benefits under the same policy, plan or certificate."

## **Chapter 218 Section 6 Laws 2007**

Section 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Corporations and Transportation

Committee Substitute for Senate Bill 776

Approved April 2, 2007

## **LAWS 2007, CHAPTER 219**

AN ACT

RELATING TO LICENSURE; EXPANDING THE POWERS AND DUTIES OF THE NEW MEXICO PUBLIC ACCOUNTANCY BOARD; PROVIDING FOR FINGERPRINTING AND BACKGROUND CHECK OF AN APPLICANT; INCREASING THE AMOUNT IMPOSED FOR AN ADMINISTRATIVE FINE; PROVIDING PENALTIES; AMENDING AND ENACTING SECTIONS OF THE 1999 PUBLIC ACCOUNTANCY ACT.

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

### **Chapter 219 Section 1 Laws 2007**

Section 1. Section 61-28B-1 NMSA 1978 (being Laws 1999, Chapter 179, Section 1) is amended to read:

"61-28B-1. SHORT TITLE.--Chapter 61, Article 28B NMSA 1978 may be cited as the "1999 Public Accountancy Act"."

### **Chapter 219 Section 2 Laws 2007**

Section 2. Section 61-28B-5 NMSA 1978 (being Laws 1999, Chapter 179, Section 5, as amended) is amended to read:

"61-28B-5. BOARD--POWERS AND DUTIES.--

A. The board may:

(1) appoint committees or persons to advise or assist it in carrying out the provisions of the 1999 Public Accountancy Act;

(2) retain its own counsel to advise and assist it in addition to advice and assistance provided by the attorney general;

(3) contract, sue and be sued and have and use a seal;

(4) cooperate with the appropriate authorities in other states in investigation and enforcement concerning violations of the 1999 Public Accountancy Act and comparable acts of other states; and

(5) adopt and file in accordance with the Uniform Licensing Act and the State Rules Act rules to carry out the provisions of the 1999 Public Accountancy Act, including rules governing the administration and enforcement of the 1999 Public Accountancy Act and the conduct of certificate and permit holders.

B. The board shall:

(1) maintain a registry of the names and addresses of certificate and permit holders; and

(2) develop, in conjunction with the department of public safety, rules requiring a criminal history background check of an applicant for initial or reciprocal certification in New Mexico as provided for in the 1999 Public Accountancy Act."

### **Chapter 219 Section 3 Laws 2007**

Section 3. Section 61-28B-20 NMSA 1978 (being Laws 1999, Chapter 179, Section 20) is amended to read:

"61-28B-20. ENFORCEMENT--ADMINISTRATIVE VIOLATIONS AND REMEDIES.--

A. The board may take, after providing a person due process pursuant to the Uniform Licensing Act, corrective action identified in Subsection B of this section following a finding that an applicant or licensee:

(1) committed fraud or deceit in obtaining a certificate or permit;

(2) lost a certificate or permit through cancellation, revocation, suspension or refusal of renewal in any other state for cause, as defined by board rule;

(3) failed to maintain compliance with the

requirements of the 1999 Public Accountancy Act and board rules for issuance or renewal of a certificate or permit or failed to report material changes to the board, as required by board rule;

(4) lost the authorization to practice in any state or before any federal agency through revocation or suspension of that authorization;

(5) committed dishonest, fraudulent or grossly negligent acts in the practice of public accountancy or in the filing or failure to file the applicant's or licensee's own income or other federal, state or local tax returns;

(6) violated a provision of the 1999 Public Accountancy Act or a rule promulgated by the board pursuant to that act;

(7) violated a rule of professional conduct promulgated by the board pursuant to the 1999 Public Accountancy Act;

(8) has been convicted of a felony or of a crime an element of which is dishonesty or fraud under the laws of the United States, of New Mexico or of any other state, or of any other jurisdiction, if the acts involved would have constituted a crime under the laws of New Mexico;

(9) performed a fraudulent act while holding a certificate or permit issued pursuant to the 1999 Public Accountancy Act or prior law; or

(10) participated in any conduct reflecting adversely upon the applicant's or licensee's fitness to engage in practice.

B. After a finding by the board that an applicant or licensee has committed a violation identified in Subsection A of this section, the board may take, with or without terms, conditions and limitations, one or more of the following corrective actions:

(1) deny an application or revoke a certificate or permit issued pursuant to the 1999 Public Accountancy Act or corresponding provisions of prior law;

(2) suspend a certificate or permit for a period of not more than five years;

(3) reprimand, censure or limit the scope of practice of a licensee;

(4) impose an administrative fine not exceeding ten thousand dollars (\$10,000); or

(5) place the licensee on probation.

C. In lieu of or in addition to a remedy specifically provided in Subsection B of this section, the board may require of a licensee:

(1) a quality review conducted in such a fashion as the board may specify;

(2) satisfactory completion of such continuing professional education programs as the board may specify;

(3) correction of the violation identified; and

(4) any other suitable remedial action as determined by the board.

D. In a proceeding in which a remedy provided by Subsection B or C of this section is imposed, the board may also require the respondent to pay the costs of the proceeding."

## **Chapter 219 Section 4 Laws 2007**

Section 4. Section 61-28B-27 NMSA 1978 (being Laws 1999, Chapter 179, Section 27, as amended) is amended to read:

"61-28B-27. FEES.--The board may collect from certificate holders, permit holders, applicants and others the following fees:

A. for examination, a fee not to exceed four hundred dollars (\$400) per examination section;

B. for certificate issuance or renewal, a fee not to exceed one hundred seventy-five dollars (\$175) per year; provided, however, the board may charge a biennial fee of not more than twice the annual fee;

C. for firm permits, a fee not to exceed one hundred dollars (\$100) per year; provided, however, the board may charge a biennial fee of not more than twice the annual fee;

D. for incomplete or delinquent continuing education reports, certificate or permit renewals, a fee not to exceed one hundred dollars (\$100) each;

E. for preparing and providing licensure and examination information to others, a fee not to exceed seventy-five dollars (\$75.00) per report;

F. reasonable administrative fees for such services as research, record copies, duplicate or replacement certificates or permits;

G. a fee for fingerprinting and background check for an applicant for certification not to exceed one hundred dollars (\$100);

H. for certificate reinstatement, a fee not to exceed one hundred seventy-five dollars (\$175), plus past due fees and penalties;

I. for waiver to comply with continuing professional education requirements, a fee not to exceed seventy-five dollars (\$75.00) per application; and

J. for reentry into active certificate status and to comply with continuing education, a fee not to exceed seventy-five dollars (\$75.00) per application."

## Chapter 219 Section 5 Laws 2007

Section 5. A new section of the 1999 Public Accountancy Act is enacted to read:

"FINGERPRINTING--CRIMINAL HISTORY BACKGROUND CHECKS.--

A. All applicants for certification as provided for in the 1999 Public Accountancy Act shall:

(1) be required to provide fingerprints on two fingerprint cards for submission to the federal bureau of investigation to conduct a national criminal history background check and to the department of public safety to conduct a state criminal history check;

(2) pay the cost of obtaining the fingerprints and criminal history background checks; and

(3) have the right to inspect or challenge the validity of the record development by the background check if the applicant is denied certification as established by board rule.

B. Electronic live scans may be used for conducting criminal history background checks.

C. Criminal history records obtained by the board pursuant to the provisions of this section are confidential. The board is authorized to use criminal history records obtained from the federal bureau of investigation and the department of public safety to conduct background checks on applicants for certification as provided for in the 1999 Public Accountancy Act.

D. Criminal history records obtained pursuant to the provisions of this section shall not be used for any purpose other than conducting background checks. Criminal history records obtained pursuant to the provisions of this section and the information contained in those records shall not be released or disclosed to any other person or agency, except pursuant to a court order or with the written consent of the person who is the subject of the records.

E. A person who releases or discloses criminal history records or information contained in those records in violation of the provisions of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions

of Section 31-19-1 NMSA 1978."

Approved April 2, 2007

## **LAWS 2007, CHAPTER 220**

AN ACT

RELATING TO BUSINESS LICENSES; CHANGING LICENSING REQUIREMENTS FOR CERTAIN BUSINESSES; CHANGING FINGERPRINT REQUIREMENTS FOR LIQUOR LICENSES; AMENDING SECTIONS OF THE LIQUOR CONTROL ACT.

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

### **Chapter 220 Section 1 Laws 2007**

Section 1. Section 60-6B-2 NMSA 1978 (being Laws 1981, Chapter 39, Section 38, as amended) is amended to read:

"60-6B-2. APPLICATIONS.--

A. Before a new license authorized by the Liquor Control Act may be issued by the director, the applicant for the license shall:

(1) submit to the director a written application for the license under oath, in the form prescribed by and stating the information required by the director, together with a nonrefundable application fee of two hundred dollars (\$200);

(2) submit to the director for approval a description, including floor plans, in a form prescribed by the director, that shows the proposed licensed premises for which the license application is submitted. The area represented by the approved description shall become the licensed premises;

(3) submit the name and street address of a New Mexico resident who is not a felon, who has power of attorney and authority to bind the applicant to matters related to liquor sales and operations and upon whom the director may serve any notice related to ownership or operation of the license, including any notice of charge pursuant to Chapter 60, Article 6C NMSA 1978;

(4) if the applicant is a corporation, be required to submit as part of its application the following:

(a) a certified copy of its articles of incorporation or, if a foreign corporation, a certified copy of its certificate of authority;

(b) the names and addresses of all officers and directors and those stockholders owning ten percent or more of the voting stock of the corporation and the amounts of stock held by each stockholder; provided, however, a corporation may not

be licensed if an officer, manager, director or holder of more than a ten percent interest in the applicant entity would not be eligible to hold a license pursuant to the Liquor Control Act; and

(c) such additional information regarding the corporation as the director may require to assure full disclosure of the corporation's structure and financial responsibility;

(5) if the applicant is a limited partnership, submit as part of its application the following:

(a) a certified copy of its certificate of limited partnership;

(b) the names and addresses of all general partners and of all limited partners contributing ten percent or more of the total value of contributions made to the limited partnership or entitled to ten percent or more of the profits earned or other income paid by the limited partnership. A limited partnership shall not receive a license if a partner or holder of a ten percent or greater interest in the applicant entity designated in this subsection would not be eligible to hold a license issued pursuant to the Liquor Control Act; and

(c) such additional information regarding the limited partnership as the director may require to assure full disclosure of the limited partnership's structure and financial responsibility;

(6) if the applicant is a limited liability company, submit as part of its application the following:

(a) a copy of the articles of organization, with a copy of the certificate of filing with the public regulation commission;

(b) the name and addresses of all the managing members and all of the nonmanaging members that own a greater than ten percent interest in the limited liability company. Any direct or indirect parent entity of the limited liability company with an interest of ten percent or more in the applicant entity shall submit application forms and qualify to hold a license; and

(c) such additional information regarding the limited liability company as the director may require to assure full disclosure of the limited liability company's structure and financial responsibility;

(7) if the applicant is a trust, submit as part of its application:

(a) the names and addresses of the trustees;

(b) the names and addresses of any beneficiaries having control over the property of the trust or receiving regular and substantial distributions of principal and income from the trust. Any beneficiary receiving regular and substantial distributions from the trust shall qualify to hold a license. The director may request a copy of the trust agreement for review, which trust agreement need not become part of the application. Affidavits as to the operation and distribution of the principal and income may be requested in lieu of, or in addition to, the copy of the trust agreement that is supplied for review by the department; and

(c) such additional information regarding the trust as the director may require to assure full disclosure of the trust's structure and financial responsibility; and

(8) obtain approval for the issuance from the governing body of the local option district in which the proposed licensed premises are to be located in accordance with the provisions of the Liquor Control Act.

B. Except for individual officers, directors, shareholders, members or partners of entities that are publicly traded on a national stock exchange and for individuals who have been fingerprinted for another

New Mexico license and had no prior criminal or arrest record, every applicant for a new license or for a transfer of ownership of a license shall file with the application two complete sets of fingerprints taken under the supervision of and certified to by an officer of the New Mexico state police, a county sheriff, a municipal chief of police, a police officer in a foreign country or an individual qualified to take fingerprints by virtue of training or experience, for each of the following individuals:

(1) if the applicant is a person, for the applicant;

(2) if the applicant or the holder of a ten percent or greater interest in the applicant entity is a corporation, for each principal officer, for each member of the board of directors and for each stockholder with a ten percent or greater interest in the applicant entity;

(3) if the applicant or the holder of a ten percent or greater interest in the applicant entity is a general partnership, for each partner;

(4) if the applicant or the holder of a ten percent or greater interest in the applicant entity is a limited partnership, for each general partner, for each limited partner holding a ten percent or greater interest in the applicant entity and for any principal officers of the limited partnership;

(5) if the applicant or the holder of a ten percent or greater interest in the applicant entity is a limited liability company, for each managing member, for each

member who owns a ten percent or greater interest in the applicant entity and for any principal officer of the limited liability company; and

(6) if the applicant is a trust, for each trustee and for each beneficiary who has control over trust property and income or who receives substantial and regular distributions from the trust.

C. Upon submission of a sworn affidavit from each person who is required to file fingerprints stating that the person has not been convicted of a felony in any jurisdiction and pending the results of background investigations, a temporary license for ninety days may be issued. The temporary license may be extended by the director for an additional ninety days if the director determines there is not sufficient time to complete the background investigation or obtain reviews of fingerprints from appropriate agencies. A temporary license shall be surrendered immediately upon order of the director.

D. An applicant who files a false affidavit shall be denied a license. When the director determines a false affidavit has been filed, the director shall refer the matter to the attorney general or district attorney for prosecution of perjury.

E. If an applicant is not a resident of New Mexico, fingerprints may be taken under supervision and certification of comparable officers in the state of residence of the applicant.

F. Before issuing a license, the department shall hold a public hearing within thirty days after receipt of the application pursuant to Subsection K of this section.

G. An application for transfer of ownership shall be filed with the department no later than thirty days after the date a person acquired an ownership interest in a license. It shall contain the actual date of sale of the license and shall be accompanied by a sworn affidavit from the owner of record of the license agreeing to the sale of the license to the applicant as well as attesting to the accuracy of the information required by this section to be filed with the department. A license shall not be transferred unless it will be placed into operation in an actual location within one hundred twenty days of issuance of the license, unless for good cause shown the director grants an additional extension for a length of time determined by the director.

H. Whenever it appears to the director that there will be more applications for new licenses than the available number of new licenses during any time period, a random selection method for the qualification, approval and issuance of new licenses shall be provided by the director. The random selection method shall allow each applicant an equal opportunity to obtain an available license, provided that all dispenser's and retailer's licenses issued in a calendar year shall be issued to residents of the state. For the purposes of random selection, the director shall also set a reasonable deadline by which applications for the available licenses shall be filed. A

person shall not file more than one application for each available license and no more than three applications per calendar year.

I. After the deadline set in accordance with Subsection H of this section, no more than ten applications per available license shall be selected at random for priority of qualification and approval. Within thirty days after the random selection for the ten priority positions for each license, a hearing pursuant to Subsection K of this section shall be held to determine the qualifications of the applicant having the highest priority for each available license. If necessary, such a hearing shall be held on each selected application by priority until a qualified applicant for each available license is approved. Further random selections for priority positions shall also be held pursuant to this section as necessary.

J. All applications submitted for a license shall expire upon the director's final approval of a qualified applicant for that available license.

K. The director shall notify the applicant by certified mail of the date, time and place of the hearing. The hearing shall be held in Santa Fe. The director may designate a hearing officer to take evidence at the hearing. The director or the hearing officer shall have the power to administer oaths.

L. In determining whether a license shall be issued, the director shall take into consideration all requirements of the Liquor Control Act. In the issuance of a license, the director shall specifically consider the nature and number of prior violations of the Liquor Control Act by the applicant or of any citations issued within the prior five years against a license held by the applicant or in which the applicant had an ownership interest required to be disclosed under the Liquor Control Act. The director shall disapprove the issuance or give preliminary approval of the issuance of the license based upon a review of all documentation submitted and any investigation deemed necessary by the director.

M. Before a new license is issued for a location, the director shall cause a notice of the application for the license to be posted conspicuously, on a sign not smaller than thirty inches by forty inches, on the outside of the front wall or front entrance of the immediate premises for which the license is sought or, if no building or improvements exist on the premises, the notice shall be posted at the front entrance of the immediate premises for which the license is sought, on a billboard not smaller than five feet by five feet. The contents of the notice shall be in the form prescribed by the department, and such posting shall be over a continuous period of twenty days prior to preliminary approval of the license. The director shall prescribe the manner in which the posting may be accomplished by the licensee, the licensee's representative or the director's designee.

N. A license shall not be issued until the posting requirements of Subsection M of this section have been met.

O. All costs of publication and posting shall be paid by the applicant.

P. It is unlawful for a person to remove or deface a notice posted in accordance with this section. A person convicted of a violation of this subsection shall be punished by a fine of not more than three hundred dollars (\$300) or by imprisonment in the county jail for not more than one hundred twenty days or by both.

Q. A person aggrieved by a decision made by the director as to the approval or disapproval of the issuance of a license may appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978. If the disapproval is based upon local option district disapproval pursuant to Subsection H of Section 60-6B-4 NMSA 1978, the local option district shall be a necessary party to an appeal. The decision of the director shall continue in force, pending a reversal or modification by the district court, unless otherwise ordered by the court."

## **Chapter 220 Section 2 Laws 2007**

Section 2. Section 60-6B-6 NMSA 1978 (being Laws 1981, Chapter 39, Section 42, as amended) is amended to read:

"60-6B-6. CORPORATE LICENSEES--LIMITED PARTNERSHIP LICENSEES--REPORTING.--

A. A corporation that holds a license issued under the Liquor Control Act shall notify the director within thirty days after the occurrence of any change in the officers, directors or holders of more than ten percent of the voting stock of the corporation, giving the names and addresses of the new officers, directors or stockholders. A corporate licensee shall also notify the director immediately of a change of agent by filing a new power of attorney. The director shall by regulation define what corporate changes, including but not limited to transfer of stock, merger and consolidation, constitute transfers of ownership of corporate licenses and shall, upon making such a determination, order appropriate compliance with the Liquor Control Act, provided that a transfer of ownership of a corporate license shall not be deemed to occur where ultimate ownership of the corporation does not change.

B. A limited partnership that holds a license issued under the Liquor Control Act shall notify the director within thirty days after the occurrence of any change of general partners or of limited partners contributing ten percent or more of the total value of contributions made to the limited partnership or entitled to ten percent or more of the profits earned or other compensation by way of income paid by the limited partnership. The director shall by regulation define what limited partnership changes constitute transfers of ownership of limited partnership licenses and shall, upon making such determination, order appropriate compliance with the Liquor Control Act, provided that a transfer of ownership of a licensee that is a limited partnership shall not be deemed to occur where ultimate ownership of the limited partnership does not change.

C. A legal entity that is not a corporation or limited partnership and that holds a license issued under the Liquor Control Act shall notify the director within thirty days after the occurrence of any change in the trustees, partners, owners or members of more than a ten percent interest in the entity, giving the names and addresses of the new trustees, partners or owners. The director shall by regulation define what entity changes constitute a transfer of ownership of such entity's license and shall, upon making such determination, order appropriate compliance with the Liquor Control Act, provided that a transfer of ownership of a licensee shall not be deemed to occur where there is no change in the ultimate ownership of the legal entity."

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Senate Bill 811, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 221**

### **AN ACT**

RELATING TO DOMESTIC VIOLENCE; INCREASING THE PERIOD OF PROBATION FOR CERTAIN DOMESTIC VIOLENCE OFFENDERS.

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

### **Chapter 221 Section 1 Laws 2007**

Section 1. Section 30-3-15 NMSA 1978 (being Laws 1995, Chapter 221, Section 6, as amended) is amended to read:

"30-3-15. BATTERY AGAINST A HOUSEHOLD MEMBER.--

A. Battery against a household member consists of the unlawful, intentional touching or application of force to the person of a household member, when done in a rude, insolent or angry manner.

B. Whoever commits battery against a household member is guilty of a misdemeanor.

C. Upon conviction pursuant to this section, an offender shall be required to participate in and complete a domestic violence offender treatment program approved by the children, youth and families department pursuant to rules promulgated by the department that define the criteria for such programs.

D. Notwithstanding any provision of law to the contrary, if a sentence imposed pursuant to this section is suspended or deferred in whole or in part, the period of

probation may extend beyond three hundred sixty-four days but may not exceed two years. If an offender violates a condition of probation, the court may impose any sentence that the court could originally have imposed and credit shall not be given for time served by the offender on probation; provided that the total period of incarceration may not exceed three hundred sixty-four days and the combined period of incarceration and probation may not exceed two years."

## **Chapter 221 Section 2 Laws 2007**

Section 2. Section 30-3-16 NMSA 1978 (being Laws 1995, Chapter 221, Section 7) is amended to read:

"30-3-16. AGGRAVATED BATTERY AGAINST A HOUSEHOLD MEMBER.--

A. Aggravated battery against a household member consists of the unlawful touching or application of force to the person of a household member with intent to injure that person or another.

B. Whoever commits aggravated battery against a household member by inflicting an injury to that person that is not likely to cause death or great bodily harm, but that does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the body, is guilty of a misdemeanor.

C. Whoever commits aggravated battery against a household member by inflicting great bodily harm or doing so with a deadly weapon or doing so in any manner whereby great bodily harm or death can be inflicted is guilty of a third degree felony.

D. Upon conviction pursuant to Subsection B of this section, an offender shall be required to participate in and complete a domestic violence offender treatment program approved by the children, youth and families department pursuant to rules promulgated by the department that define the criteria for such programs.

E. Notwithstanding any provision of law to the contrary, if a sentence imposed pursuant to the provisions of Subsection B of this section is suspended or deferred in whole or in part, the period of probation may extend beyond three hundred sixty-four days but may not exceed two years. If an offender violates a condition of probation, the court may impose any sentence that the court could originally have imposed and credit shall not be given for time served by the offender on probation; provided that the total period of incarceration may not exceed three hundred sixty-four days and the combined period of incarceration and probation may not exceed two years."

## **Chapter 221 Section 3 Laws 2007**

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 820, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 222**

AN ACT

RELATING TO CORRECTIONS; CLARIFYING THE DURATION OF CONTRACTS FOR THE OPERATION OF A JAIL OR THE INCARCERATION OF PRISONERS.

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

### **Chapter 222 Section 1 Laws 2007**

Section 1. Section 33-3-27 NMSA 1978 (being Laws 1984, Chapter 22, Section 18, as amended) is amended to read:

"33-3-27. JAIL AGREEMENTS--APPROVAL--LIABILITY--TERMINATION--VENUE.--

A. Agreements with a private independent contractor for the operation of a jail or for the incarceration of prisoners shall be made for a period of up to five years, but those agreements may allow for additional one-year or two-year extensions not to exceed a total of five extensions. Agreements binding on future governing bodies for construction, purchase or lease of a jail facility for not more than fifteen years are authorized.

B. All agreements with private independent contractors for the operation or provision and operation of jails shall include a performance bond and be approved in writing, prior to their becoming effective, by the local government division of the department of finance and administration and the office of the attorney general. Disapproval may be based on any reasonable grounds, including adequacy or appropriateness of the proposed plan or standards; suitability or qualifications of the proposed contractor or the contractor's employees; absence of required or desirable contract provisions; unavailability of funds; or any other reasonable grounds. No agreement shall be valid or enforceable without prior approval.

C. All agreements with private independent contractors for the operation or provision and operation of jails shall provide for the independent contractor to provide and pay for training for jailers to meet minimum training standards, which shall be specified in the contract.

D. All agreements with private independent contractors for the operation or provision and operation of jails shall set forth comprehensive standards for conditions of incarceration, either by setting them forth in full as part of the contract or by reference to known and respected compilations of those standards.

E. All agreements with private independent contractors for the operation or provision and operation of jails shall be approved in writing, prior to their becoming effective, by the risk management division of the general services department. Approval shall be conditioned upon contractual arrangements satisfactory to the risk management division for:

(1) the contractor's assumption of all liability caused by or arising out of all aspects of the provision and operation of the jail; and

(2) liability insurance covering the contractor and its officers, jailers, employees and agents in an amount sufficient to cover all liability caused by or arising out of all aspects of the provision and operation of the jail. A copy of the proposed insurance policy for the first year shall be submitted for approval with the contract.

F. All agreements with private independent contractors for the operation or provision and operation of jails shall provide for termination for cause by the local public body parties upon ninety days' notice to the independent contractor. A termination shall be allowed for at least the following reasons:

(1) failure of the independent contractor to meet minimum standards and conditions of incarceration, which standards and conditions shall be specified in the contract; or

(2) failure to meet other contract provisions when the failure seriously affects the operation of the jail.

The reasons for termination set forth in this subsection are not exclusive and may be supplemented by the parties.

G. Venue for the enforcement of any agreement entered into pursuant to the provisions of this section shall be in the district court of the county in which the facility is located or in Santa Fe county."

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Senate Bill 823, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 223**

## AN ACT

RELATING TO PUBLIC REGULATION; PROVIDING FOR A REFUND OF FEES IN CERTAIN SITUATIONS; REMOVING ENFORCEMENT DUTIES OF THE ATTORNEY GENERAL.

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

### **Chapter 223 Section 1 Laws 2007**

Section 1. A new section of the Public Utility Act, Section 62-13-2.1 NMSA 1978, is enacted to read:

"62-13-2.1. REFUND OF FEES.--If the commission dismisses a complaint for lack of probable cause, the commission may refund a fee paid pursuant to Subsection B of Section 62-13-2 NMSA 1978 if the commission determines that the dismissed complaint was filed in good faith."

### **Chapter 223 Section 2 Laws 2007**

Section 2. Section 70-3-19 NMSA 1978 (being Laws 1969, Chapter 71, Section 9, as amended) is amended to read:

"70-3-19. ENFORCEMENT--PENALTIES.--

A. If as a result of investigation the commission has good cause to believe that any person is violating any provision of Subsection A of Section 70-3-18 NMSA 1978 or any regulation adopted by the commission under the Pipeline Safety Act, the commission shall, when practicable and except in the case of a knowing and willful violation, give the person notice of the violation and an opportunity to comply. If the commission is unable within a reasonable time to obtain voluntary cooperation to prevent the continuing violation, the commission may apply for an injunction in the district court of the county in which the violation occurs to secure compliance. The failure to give notice and afford an opportunity to comply shall not preclude the granting of injunctive relief.

B. The trial before the district court shall be before the court without jury, and the court shall enter judgment and orders enforcing the judgment as the public interest and equities of the case may require.

C. Any person owning or operating gas pipeline facilities or engaged in the transportation of gas or owning or operating oil pipeline facilities or engaged in the transportation of oil who has been determined by order of the commission after hearing to have violated any provision of Subsection A of Section 70-3-18 NMSA 1978 or any regulation promulgated under the Pipeline Safety Act applicable to intrastate pipeline facilities shall be subject to a civil penalty in an amount not to exceed twenty-five

thousand dollars (\$25,000) for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed five hundred thousand dollars (\$500,000) for any related series of violations.

D. In determining the amount of the penalty, the commission shall consider the nature, circumstances and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the penalty and other matters as justice may require.

E. Judicial review of any provision of this section may be accomplished in the same manner as is found in Section 70-3-15 NMSA 1978.

F. Any person who willfully and knowingly injures or destroys or attempts to injure or destroy an intrastate pipeline facility shall upon conviction be subject for each offense to a fine not to exceed twenty-five thousand dollars (\$25,000) or imprisonment for a term not to exceed fifteen years, or both.

G. Any person who willfully and knowingly damages, removes or destroys any pipeline sign, right-of-way marker required by the Pipeline Safety Act or any regulation or order issued pursuant to that act shall upon conviction be subject for each offense to a fine of not more than five thousand dollars (\$5,000) or imprisonment for a term not to exceed one year, or both."

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Senate Bill 868

Approved April 2, 2007

## **LAWS 2007, CHAPTER 224**

### **AN ACT**

RELATING TO REAL ESTATE; REVISING DEADLINES FOR THE FUNDING OF REAL ESTATE TRANSACTIONS; AMENDING AND REPEALING SECTIONS OF THE MORTGAGE LOAN COMPANY AND LOAN BROKER ACT.

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

### **Chapter 224 Section 1 Laws 2007**

Section 1. Section 58-21-2 NMSA 1978 (being Laws 1983, Chapter 86, Section 2, as amended) is amended to read:

"58-21-2. DEFINITIONS.--As used in the Mortgage Loan Company and Loan Broker Act:

A. "affiliate" means a person who, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with another person;

B. "closing agent" means a person, including a title insurance agent or title insurance company, that acts in the normal course of business in a fiduciary capacity as a disinterested third party for the seller and buyer of real property for the purpose of consummating a sale of real property, including the performance of the following functions:

(1) preparation of deeds, mortgages, promissory notes, deeds of trust, real estate contracts, assignments or other documents incidental to the sale as permitted by law;

(2) calculations and disbursements of prorated taxes, insurance premiums, utility bills and other charges incidental to the sale;

(3) preparation of sellers' and buyers' closing statements;

(4) supervision of signing of documents;

(5) collection and disbursement of down payments, commissions of real estate licensees, fees and other charges pursuant to a sales agreement; and

(6) recordation of documents;

C. "division" means the financial institutions division of the regulation and licensing department;

D. "director" means the director of the financial institutions division of the regulation and licensing department;

E. "dwelling" means a residential structure, including a home, individual condominium unit, manufactured home or modular home, that contains one to four units and is permanently attached to real property;

F. "lender" means a person or government agency making a mortgage loan;

G. "loan broker" means any person who acts as a finder or agent of a lender or borrower of money for the purpose of procuring a mortgage loan, or both;

H. "mortgage loan" means a loan secured by a dwelling permanently affixed to real property;

I. "mortgage loan company" means a person who, directly or indirectly:

(1) holds himself out as being able to serve as an agent for any person in an attempt to obtain a mortgage loan;

(2) holds himself out as being able to serve as an agent for a person who makes mortgage loans; or

(3) holds himself out as being able to make mortgage loans; and

J. "net loan funds" means the mortgage loan amounts specified in the note and mortgage less

lender-retained fees, as specified in the lender's instruction to the closing agent."

## **Chapter 224 Section 2 Laws 2007**

Section 2. Section 58-21-23.2 NMSA 1978 (being Laws 2005, Chapter 191, Section 3) is amended to read:

"58-21-23.2. FUNDING OF REAL ESTATE TRANSACTIONS--  
ENFORCEMENT.--

A. Unless the net loan funds necessary to complete a purchase of real property have been previously delivered to the seller or to the closing agent, a lender shall deliver the required net loan funds within two business days of the time that the lender deems the closing agent has fulfilled the requirements of the closing agent's duties, except for the recordation of documents, and shall:

(1) authorize the closing agent to record with the county clerk all documents necessary to complete the real estate transaction and release the proceeds of the real estate transaction in accordance with agreed upon escrow instructions;

(2) advise the closing agent of any funding conditions, as set forth in the lender's escrow instructions, that have not been satisfied and instruct the closing agent in writing what is to be done with any of the lender's funds held in escrow; or

(3) advise the closing agent that the documentation for the real estate transaction does not satisfy the lender's escrow instructions, specify the manner in which that documentation does not satisfy those instructions and instruct the closing agent in writing what is to be done with any of the lender's funds held in escrow.

B. In the event a lender does not comply with the requirements of Subsection A of this section, unreasonably refuses to approve the documentation necessary to complete a real estate action or unreasonably delays authorization of the recordation of closing documents and release of proceeds of a real estate transaction, the director of

the division may, upon receipt of a complaint and in accordance with the procedures set forth in the Mortgage Loan Company and Loan Broker Act, suspend or revoke any state registration or license issued to the lender for a period not to exceed one year."

### **Chapter 224 Section 3 Laws 2007**

Section 3. REPEAL.--Section 58-21-23.1 NMSA 1978 (being Laws 2005, Chapter 191, Section 2) is repealed.

### **Chapter 224 Section 4 Laws 2007**

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 923

Approved April 2, 2007

## **LAWS 2007, CHAPTER 225**

AN ACT

RELATING TO THE SOLICITATION OF SERVICES OR PRODUCTS; PROHIBITING SOLICITORS FROM USING CERTAIN LOAN INFORMATION OR A TRADE NAME OR TRADEMARK OF A LENDER OR A TRADE NAME OR TRADEMARK CONFUSINGLY SIMILAR TO THAT OF A LENDER; PROVIDING A CAUSE OF ACTION.

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

### **Chapter 225 Section 1 Laws 2007**

Section 1. SOLICITATIONS USING LOAN INFORMATION--RESTRICTION--CAUSE OF ACTION.--

A. A person shall not reference the trade name or trademark of a lender or a trade name or trademark confusingly similar to that of a lender in a solicitation offering services or products without the consent of the lender, unless the solicitation clearly and conspicuously states the following in close proximity to and in the same or larger point type as the first and the most prominent use of a lender's trade name or trademark:

(1) the name, address and telephone number of the person making the solicitation;

- (2) that the person making the solicitation is not affiliated with the lender;
- (3) that the solicitation is not authorized or sponsored by the lender; and
- (4) that the loan information referenced was not provided by the lender.

B. A person shall not reference a loan number, loan amount or other specific loan information that is not publicly available in a solicitation offering services or products, unless the information is included in a communication from a lender or an affiliate of a lender to a current customer of the lender or a person who was a customer of the lender during the eighteen months immediately preceding the solicitation.

C. Except as provided in Subsection D of this section, a person shall not reference a loan number, loan amount or other specific loan information that is publicly available in a solicitation offering services or products, unless the solicitation clearly and conspicuously states the following in close proximity to and in the same or larger point type as the first and the most prominent use of the loan number, loan amount or other specific loan information:

- (1) the name, address and telephone number of the person making the solicitation;
- (2) that the person making the solicitation is not affiliated with the lender;
- (3) that the solicitation is not authorized or sponsored by the lender; and
- (4) that the loan information referenced was not provided by the lender.

D. Subsection C of this section does not apply to a communication by a lender or an affiliate of a lender with a current customer of the lender or with a person who was a customer of the lender during the eighteen months immediately preceding the communication.

E. A person shall not use the name of a lender or a name similar to that of a lender in a solicitation directed to consumers if that use could cause a reasonable person to be confused, mistaken or deceived as to:

- (1) the lender's sponsorship, affiliation, connection or association with the person using the name; or
- (2) the lender's approval or endorsement of the person using the name or the person's services or products.

F. Any reference to an outstanding loan, including the name of the lender, the loan number, the loan amount or other specific information about the loan that appears on the outside of an envelope, that is visible through the envelope window or that

appears on a postcard in connection with any written communication that includes or contains a solicitation for goods or services, is prohibited without the consent of the lender.

G. The prohibitions of this section do not apply to the use by a person of the trade name of another lender in an advertisement for services or products that compares the services or products offered by the other lender.

H. A lender or owner of a trade name or trademark may seek an injunction in a state district court against a person who violates this section to stop the unlawful use of the trade name, trademark or loan information. In such an action:

(1) the person seeking the injunction shall not have to prove actual damage as a result of the violation; and

(2) irreparable harm and interim harm to the lender or owner shall be presumed.

I. A lender or owner seeking an injunction under Subsection H of this section may, in the same action, seek to recover actual damages and any profits the defendant has accrued as a result of a violation of this section. The prevailing party in an action brought pursuant to this section may recover costs associated with the action and reasonable attorney fees from the other party.

J. As used in this section:

(1) "affiliate" means a business entity that, directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with another business entity; and

(2) "lender" means an insured state or national bank, a state or federal savings and loan association or savings bank, a state or federal credit union, a mortgage loan company, an escrow company or any other person who makes loans in this state or a holder of a loan and any affiliate, or any third party operating with the consent of the lender.

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Senate Bill 930

Approved April 2, 2007

## **LAWS 2007, CHAPTER 226**

AN ACT

RELATING TO GOVERNMENTAL CONDUCT; LIMITING GIFTS TO CANDIDATES FOR STATE OFFICE AND STATE OFFICERS AND EMPLOYEES AND THEIR FAMILIES; PROVIDING FOR PENALTIES.

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

### **Chapter 226 Section 1 Laws 2007**

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

### **Chapter 226 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the Gift Act:

A. "family" means a spouse and dependent children;

B. "gift" means any donation or transfer without commensurate consideration of money, property, service, loan, promise or any other thing of value, including food, lodging, transportation and tickets for entertainment or sporting events, but does not include:

(1) any activity, including but not limited to the acceptance of a donation, transfer or contribution, or the making of an expenditure or reimbursement, that is authorized by the Campaign Reporting Act or the Federal Election Campaign Act of 1971, as amended;

(2) a gift given under circumstances that make it clear that the gift is motivated by a family relationship or close personal relationship rather than the recipient's position as a state officer or employee or candidate for state office;

(3) compensation for services rendered or capital invested that is:

(a) normal and reasonable in amount;

(b) commensurate with the value of the service rendered or the magnitude of the risk taken on the investment;

(c) in no way increased or enhanced by reason of the recipient's position as a state officer or employee or candidate for state office; and

(d) not otherwise prohibited by law;

(4) payment for a sale or lease of tangible or intangible property that is commensurate with the value of the services rendered and is in no way increased or enhanced by reason of the recipient's position as a state officer or employee or candidate for state office;

(5) a commercially reasonable loan made in the ordinary course of the lender's business on terms that are available to all similarly qualified borrowers;

(6) reimbursement for out-of-pocket expenses actually incurred in the course of performing a service for the person making the reimbursement;

(7) any gift accepted on behalf of and to be used by the state or a political subdivision of the state, including travel, subsistence and related expenses accepted by a state agency in connection with a state officer's or employee's official duties that take place away from the state official's or employee's station of duty;

(8) anything for which fair market value is paid or reimbursed by the state officer or employee or candidate for state office;

(9) reasonable expenses for a bona fide educational program that is directly related to the state officer's or employee's official duties; or

(10) a retirement gift;

C. "market value" means the retail cost a person would incur to purchase a gift;

D. "restricted donor" means a person who:

(1) is or is seeking to be a party to any one or any combination of sales, purchases, leases or contracts to, from or with the agency in which the donee holds office or is employed;

(2) will personally be, or is the agent of a person who will be, directly and substantially affected financially by the performance or nonperformance of the donee's official duty in a way that is greater than the effect on the public generally or on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry or region;

(3) is personally, or is the agent of a person who is, the subject of or party to a matter that is pending before a regulatory agency and over which the donee has discretionary authority as part of the donee's official duties or employment within the regulatory agency; or

(4) is a lobbyist or a client of a lobbyist with respect to matters within the donee's jurisdiction; and

E. "state officer or employee" means any person who has been elected to, appointed to or hired for any state office and who receives compensation in the form of salary or is eligible for per diem or mileage.

## **Chapter 226 Section 3 Laws 2007**

### Section 3. LIMITATION ON GIFTS.--

A. A state officer or employee or a candidate for state office, or that person's family, shall not knowingly accept from a restricted donor, and a restricted donor shall not knowingly donate to a state officer or employee or a candidate for state office, or that person's family, a gift of a market value greater than two hundred fifty dollars (\$250).

B. A lobbyist registered with the secretary of state, the lobbyist's employer or a government contractor shall not donate gifts of an aggregate market value greater than one thousand dollars (\$1,000) in a calendar year to any one state officer or employee or to any one candidate for state office.

C. A state officer or employee shall not solicit gifts for a charity from a business or corporation regulated by the state agency for which the state officer or employee works and shall not otherwise solicit donations for a charity in such a manner that it appears that the purpose of the donor in making the gift is to influence the state officer or employee in the performance of an official duty.

### **Chapter 226 Section 4 Laws 2007**

Section 4. PENALTIES.--A person who violates the provisions of the Gift Act is guilty of a petty misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

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Senate Judiciary Committee Substitute

for Senate Bill 931, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 227**

AN ACT

RELATING TO EDUCATION; PROVIDING FOR DUAL CREDITS TOWARD HIGH SCHOOL GRADUATION AND A POST-SECONDARY DEGREE OR CERTIFICATE; SPECIFYING REQUIREMENTS AND CONDITIONS; PROVIDING FOR DATA COLLECTION AND EVALUATION.

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

### **Chapter 227 Section 1 Laws 2007**

Section 1. DUAL CREDIT FOR HIGH SCHOOL AND POST-SECONDARY CLASSES.--

A. As used in this section, "dual credit program" means a program that allows high school students to enroll in college-level courses offered by a public post-secondary educational institution that may be academic or career-technical but not remedial or developmental, and simultaneously to earn credit toward high school graduation and a post-secondary degree or certificate.

B. To be eligible to participate in a dual credit program, the student shall:

(1) be enrolled in a regular public school or charter school in one-half or more of the minimum course requirements approved by the public education department for public school students; and

(2) obtain permission from a school counselor, the school principal or head administrator of a charter school prior to enrolling in a dual credit course.

C. The school district or charter school that the student attends shall pay the cost of the required textbooks and other course supplies for the post-secondary course the student is enrolled in through purchase arrangements with the bookstore at the public post-secondary educational institution or other cost-efficient methods. The student shall return the textbooks and unused course supplies to the school district when the student completes the course or withdraws from the course.

D. A public post-secondary educational institution that participates in a dual credit program shall waive all general fees for dual credit courses.

E. The higher education department shall revise procedures in the higher education funding formula to address enrollments in dual credit courses and to encourage institutions to waive tuition for high school students taking those courses.

F. The higher education department and the public education department shall adopt and promulgate rules to implement a dual credit program that specify:

(1) post-secondary courses that are eligible for dual credit;

(2) conditions that apply, including:

(a) the required academic standing and conduct of students enrolled in dual credit courses;

(b) the semesters in which dual credit courses may be taken;

(c) the nature of high school credit earned;

(d) any caps on the number of courses, location of courses and provision of transcripts; and

(e) an appeals process for a student who is denied permission to enroll in a dual credit course;

(3) accommodations or other arrangements applicable to special education students;

(4) the contents of the uniform master agreement, developed in collaboration with school districts, charter schools and the public post-secondary educational institutions, that govern the roles, responsibilities and liabilities of the school district or charter school, the institution and the student and the student's family;

(5) provisions for expanding dual credit opportunities through distance learning and other methods;

(6) the means by which public high schools are required to inform students and parents about opportunities to participate in dual credit programs during student advisement, academic support and formulation of annual next step plans, as well as other methods; and

(7) provisions for collecting and disseminating annual data, including:

(a) the number of students taking dual credit courses;

(b) the participating school districts, charter schools and public post-secondary educational institutions;

(c) the courses taken and grades earned;

(d) the high school graduation rates for participating school districts and charter schools;

(e) the public post-secondary educational institutions that participating students ultimately attend; and

(f) the cost of providing dual credit courses.

G. The higher education department and the public education department shall evaluate dual credit programs in terms of their accessibility to students statewide and their effect on student achievement in secondary education, on student enrollment and completion of higher education and on school districts and public post-secondary educational institutions. The departments shall make an annual report, including recommendations, to the governor and the legislature.

## Chapter 227 Section 2 Laws 2007

Section 2. Section 21-13-19 NMSA 1978 (being Laws 1968, Chapter 70, Section 2, as amended) is amended to read:

### "21-13-19. ENROLLMENT DEFINED--PAYMENTS.--

A. For those students in community colleges taking college-level courses, full-time-equivalent students shall be defined and computed by the higher education department in the same manner in which it defines and computes full-time-equivalent students for all other college-level programs within its jurisdiction.

B. No student shall be included in any calculations made under the provisions of this section if the student is enrolled in a course the cost of which is totally reimbursed from federal, state or private sources.

C. The higher education department shall not recommend an appropriation greater than three hundred twenty-five dollars (\$325) for each full-time-equivalent student for any community college that levies a tax at a rate less than two dollars (\$2.00), unless a lower amount is required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon a rate of at least two dollars (\$2.00) on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, or any community college that reduces a previously authorized tax levy, except as required by the operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978.

D. The higher education department shall require from the community college such reports as the department deems necessary for the purpose of determining the number of full-time-equivalent students at the community college eligible to receive support under this section.

E. A community college board shall establish tuition and fee rates for its respective institutions for full-time, part-time, resident and nonresident students, as defined by the higher education department.

F. A community college board may establish and grant gratis scholarships to students who are residents of New Mexico in an amount not to exceed the matriculation fee or tuition and fees, or both. The gratis scholarships are in addition to the lottery tuition scholarships authorized in Section 21-13-10 NMSA 1978 and shall be granted to the full extent of available funds before lottery tuition scholarships are granted. The number of scholarships established and granted pursuant to this subsection shall not exceed three percent of the preceding fall semester enrollment in each institution and shall not be established and granted for summer sessions. The president of each institution shall select and recommend to the community college board of the president's institution, as recipients of scholarships, students who possess good moral character and satisfactory initiative, scholastic standing and personality. At least thirty-three and

one-third percent of the gratis scholarships established and granted by each community college board each year shall be granted on the basis of financial need.

G. A student in a home school or private school who meets the eligibility criteria in rules promulgated by the public education department and higher education department may apply for dual credit courses, provided that the student pays the full cost of dual credit courses."

## **Chapter 227 Section 3 Laws 2007**

Section 3. Section 21-14-1 NMSA 1978 (being Laws 1957, Chapter 143, Section 1, as amended) is amended to read:

"21-14-1. BRANCH COMMUNITY COLLEGE EDUCATIONAL PROGRAM AND ENROLLMENT DEFINED.--

A. "Branch community college educational program", for the purposes of Chapter 21, Article 14 NMSA 1978, includes either the first two years of college education or organized vocational and technical curricula of not more than two years' duration designed to fit individuals for employment in recognized occupations, or both.

B. The calculation of full-time-equivalent student population for the purposes of Chapter 21, Article 14 NMSA 1978 shall include students enrolled in college-level courses and students enrolled in vocational and technical courses taught by a branch community college that is recognized by the instructional support and vocational education division of the public education department as an area vocational school or in courses that are approved by the secretary of public education. Students enrolled in a course the cost of which is totally reimbursed from federal, state or private sources shall not be included in the calculation of full-time-equivalent student population."

## **Chapter 227 Section 4 Laws 2007**

Section 4. Section 21-14A-2 NMSA 1978 (being Laws 1982, Chapter 42, Section 2, as amended) is amended to read:

"21-14A-2. DEFINITIONS.--As used in the Off-Campus Instruction Act:

A. "off-campus instruction program" means either the first two years of college education or organized vocational and technical curricula of not more than two years' duration designed to fit individuals for employment in recognized occupations, or both; and

B. "full-time-equivalent student" includes students enrolled in college-level courses and students enrolled in vocational and technical courses taught by an off-campus instruction program. Students enrolled in a course the cost of which is totally

reimbursed from federal, state or private sources shall not be included in the calculation of full-time-equivalent student population."

## **Chapter 227 Section 5 Laws 2007**

Section 5. Section 21-16-10 NMSA 1978 (being Laws 1968, Chapter 59, Section 3, as amended) is amended to read:

"21-16-10. APPROPRIATION--DISTRIBUTION.--

A. The higher education department shall recommend an appropriation for each technical and vocational institute based upon its financial requirements in relation to its authorized program and its available funds from non-general fund sources; provided, the recommended appropriation shall be an amount not less than three hundred twenty-five dollars (\$325) for each full-time-equivalent student.

B. The higher education department shall by rule provide for the method for calculating the number of full-time-equivalent students in technical and vocational institutes. No student shall be included in any calculation of the number of full-time-equivalent students if the student is enrolled in a course, the cost of which is totally reimbursed from federal, state or private sources.

C. The higher education department shall not recommend an appropriation greater than three hundred twenty-five dollars (\$325) for each full-time-equivalent student for any technical and vocational institute that levies a tax at a rate less than two dollars (\$2.00), unless a lower amount is required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon a rate approved by the electors of at least two dollars (\$2.00) on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, or any technical and vocational institute that reduces a previously authorized tax levy, except as required by the operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978.

D. The board may establish and grant gratis scholarships to students who are residents of New Mexico in an amount not to exceed the matriculation fee or tuition and fees, or both. The gratis scholarships are in addition to the lottery tuition scholarships authorized in Section 21-16-10.1 NMSA 1978 and shall be granted to the full extent of available funds before lottery tuition scholarships are granted. The number of scholarships established and granted pursuant to this subsection shall not exceed three percent of the preceding fall semester enrollment in the technical and vocational institute and shall not be established and granted for summer sessions. The president of the technical and vocational institute shall select and recommend to the board as recipients of scholarships students who possess good moral character and satisfactory initiative, scholastic standing and personality. At least thirty-three and one-third percent of the gratis scholarships established and granted by the board each year shall be granted on the basis of financial need."

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Senate Bill 943, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 228**

AN ACT

RELATING TO PUBLIC MONEY; REVISING REQUIREMENTS FOR THE DEPOSIT OF PUBLIC MONEY.

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

### **Chapter 228 Section 1 Laws 2007**

Section 1. Section 6-10-36 NMSA 1978 (being Laws 1977, Chapter 136, Section 1, as amended) is amended to read:

"6-10-36. PUBLIC MONEY DEPOSITS OF CERTAIN GOVERNMENTAL UNITS--  
-DISTRIBUTION--INTEREST.--

A. All public money, except that in the custody of the state treasurer, institutions of higher education, technical and vocational institutes, incorporated municipalities and counties that have adopted home rule charters as authorized by the constitution of New Mexico and local school boards that have been designated as boards of finance, shall be deposited in qualified depositories in accordance with the terms of this section or invested as otherwise provided by law.

B. Deposits of funds of a governmental unit may be made in noninterest-bearing checking accounts in one or more banks or savings and loan associations designated as checking depositories located within the geographical boundaries of the governmental unit. In addition, deposits of funds may be in noninterest-bearing accounts in one or more credit unions designated as checking depositories located within the geographical boundaries of the governmental unit to the extent the deposits are insured by an agency of the United States. If there is no checking depository within the geographical boundaries of the governmental unit, one or more banks, savings and loan associations or credit unions within the county in which the principal office of the governmental unit is located may be so designated, but credit union deposits shall be insured by an agency of the United States.

C. Public money placed in interest-bearing deposits in banks and savings and loan associations shall be equitably distributed among all banks and savings and loan associations having their main or staffed branch offices within the geographical boundaries of the governmental unit that have qualified as public depositories by reason

of insurance of the account by an agency of the United States or by depositing collateral security or by giving bond as provided by law and that desire a deposit of public money pursuant to this section. The deposits shall be in the proportion that each bank's or savings and loan association's deposits bears to the total deposits of all banks and savings and loan associations that have their main office or staffed branch office within the geographical boundaries of the governmental unit and that desire a deposit of public money pursuant to this section. The deposits of the main office of a savings and loan association and its staffed branch offices within the geographical boundaries of a governmental unit is the total deposits of the association multiplied by the percentage that deposits of the main office and the staffed branch offices located within the geographical boundaries of the governmental unit are of the total deposits of the association, net of any public fund deposits. The deposits of each staffed branch office or aggregate of staffed branch offices of a savings and loan association located outside the geographical boundaries of the governmental unit in which the main office is located is the total deposits of the association multiplied by the percentage that deposits of the branch or the aggregate of branches located outside the geographical boundaries of the governmental unit in which the main office is located are of the total deposits of the association, net of any public fund deposits. The director of the financial institutions division of the regulation and licensing department shall promulgate a formula for determining the deposits of banks' main offices and branches for the purposes of distribution of public money as provided for by this section.

D. Public money may be placed at the discretion of the designated board of finance or treasurer in interest-bearing deposits in credit unions having their main or staffed branch offices within the geographical boundaries of the governmental unit to the extent the deposits are insured by an agency of the United States.

E. The rate of interest for all public money deposited in interest-bearing accounts in banks, savings and loan associations and credit unions shall be set by the state board of finance, but in no case shall the rate of interest be less than one hundred percent of the asked price on United States treasury bills of the same maturity on the day of deposit. Any bank or savings and loan association that fails to pay the minimum rate of interest at the time of deposit provided for in this subsection for any respective deposit forfeits its right to an equitable share of that deposit under this section.

If the deposit is part or all of the proceeds of a bond issue and the interest rate prescribed in this subsection materially exceeds the rate of interest of the bonds, the interest rate prescribed by this subsection shall be reduced on that deposit to an amount not materially exceeding the interest rate of the bonds if the bond issue would lose its tax-exempt status pursuant to the provisions of the Internal Revenue Code of 1986, as amended.

F. Public money in excess of that for which banks, savings and loan associations and credit unions within the geographical boundaries of the governmental unit have qualified may be deposited in qualified depositories in other areas within the state under the same requirements for payment of interest as if the money were deposited within

the geographical boundaries of the governmental unit or may be invested as provided by law.

G. The department of finance and administration may monitor the deposits of public money by governmental units to assure full compliance with the provisions of this section."

## **Chapter 228 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Corporations and Transportation

Committee Substitute for Senate Bill 986

Approved April 2, 2007

## **LAWS 2007, CHAPTER 229**

AN ACT

RELATING TO TAXATION; ENCOURAGING THE DEVELOPMENT OF ELECTRICAL GENERATION BY ADVANCED COAL ELECTRIC GENERATING OR GASIFICATION FACILITIES, RECYCLED ENERGY FACILITIES, RENEWABLE ENERGY STORAGE FACILITIES OR SOLAR THERMAL ELECTRIC GENERATING FACILITIES; ENACTING A TAX CREDIT AGAINST THE GROSS RECEIPTS TAX, COMPENSATING TAX AND WITHHOLDING TAX LIABILITY OF A QUALIFIED TAXPAYER; PROVIDING FOR COST RECOVERY FOR CLEAN ENERGY UTILITY PROJECTS.

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

## **Chapter 229 Section 1 Laws 2007**

Section 1. ADVANCED ENERGY TAX CREDIT--GROSS RECEIPTS TAX--COMPENSATING TAX--WITHHOLDING TAX.--

A. A taxpayer that holds an interest in a qualified generating facility may claim a credit to be computed pursuant to the provisions of this section. The credit provided by this section may be referred to as the "advanced energy tax credit".

B. As used in this section:

(1) "department" means the taxation and revenue department;

(2) "eligible generation plant costs" means expenditures for the development and construction of a qualified generating facility, including permitting; site characterization and assessment; engineering; design; carbon dioxide capture, treatment, compression, transportation and sequestration; site and equipment acquisition; and fuel supply development used directly and exclusively in a qualified generating facility;

(3) "qualified generating facility" means a new solar thermal electric generating facility that may include an associated renewable energy storage facility or recycled energy projects that begins construction no later than December 31, 2015 or a new or re-powered coal-based electric generating unit and an associated coal gasification facility, if any, that begins construction no later than December 31, 2015 that meets the following specifications:

(a) emits the lesser of: 1) what is achievable with the best available control technology; or 2) thirty-five thousandths pound per million British thermal units of sulfur dioxide, twenty-five thousandths pound per million British thermal units of oxides of nitrogen and one hundredth pound per million British thermal units of total particulates in the flue gas;

(b) removes the greater of: 1) what is achievable with the best available control technology; or 2) ninety percent of the mercury from the input fuel;

(c) captures and sequesters or controls carbon dioxide emissions so that by the later of January 1, 2017 or eighteen months after the commercial operation date of the qualified generating facility, no more than one thousand one hundred pounds per megawatt-hour of carbon dioxide is emitted into the atmosphere;

(d) all infrastructure required for sequestration is in place by the later of January 1, 2017, or eighteen months after the commercial operation date of the qualified generating facility;

(e) includes methods and procedures to monitor the disposition of the carbon dioxide captured and sequestered from the facility; and

(f) does not exceed seven hundred net megawatts name-plate capacity;

(4) "recycled energy" means energy produced by a generation unit with a name-plate capacity of not more than fifteen megawatts that converts the otherwise lost energy from the exhaust stacks or pipes to electricity without combustion of additional fossil fuel; and

(5) "sequester" means to store, or chemically convert, carbon dioxide in a manner that prevents its release into the atmosphere and may include the use of geologic formations and enhanced oil, coalbed methane or natural gas recovery techniques.

C. Subject to the limit imposed in Subsection H of this section, the advanced energy tax credit shall equal no more than six percent of the eligible generation plant costs of a qualified generating facility.

D. A taxpayer may apply for the advanced energy tax credit by submitting to the taxation and revenue department a certificate issued by the department of environment pursuant to Subsection I of this section, documentation showing the taxpayer's interest in the qualified generating facility identified in the certificate and other information the taxation and revenue department requests to determine the amount of tax credit due to the taxpayer.

E. A taxpayer having applied for and been granted approval for a credit by the department pursuant to this section may claim an amount of available credit against the taxpayer's gross receipts tax, compensating tax or withholding tax due to the state.

F. A taxpayer that is liable for the payment of gross receipts or compensating tax with respect to the ownership, development, construction, maintenance or operation of a new coal-based electric generating facility that does not meet the criteria for a qualified generating facility and that begins construction after January 1, 2007 shall not claim an advanced energy tax credit pursuant to this section or a gross receipts tax credit, a compensating tax credit or a withholding tax credit pursuant to any other state law.

G. If the amount of the tax credit claimed exceeds the taxpayer's liability, the excess may be carried forward for up to five years.

H. The aggregate amount of tax credit that may be claimed with respect to each qualified generating facility shall not exceed sixty million dollars (\$60,000,000).

I. An entity that holds title to a qualified generating facility may request a certificate of eligibility from the department of environment to enable the requester to apply for the advanced energy tax credit. The department of environment:

(1) shall determine if the facility is a qualified generating facility;

(2) shall require that the requester provide the department of environment with the information necessary to assess whether the requester's facility meets the criteria to be a qualified generating facility;

(3) shall issue a certificate to the requester stating that the facility is or is not a qualified generating facility within one hundred eighty days after receiving all information necessary to make a determination;

(4) shall:

(a) issue rules governing the procedure for administering the provisions of this subsection and Subsection J of this section;

(b) issue a schedule of fees in which no fee exceeds one hundred fifty thousand dollars (\$150,000); and

(c) deposit fees collected pursuant to this paragraph in the state air quality permit fund created pursuant to Section 74-2-15 NMSA 1978; and

(5) shall report annually to the appropriate interim legislative committee information that will allow the legislative committee to analyze the effectiveness of the advanced energy tax credit, including the identity of qualified generating facilities, the energy production means used, the amount of emissions identified in this section reduced and removed by those qualified generating facilities and whether any requests for certificates of eligibility could not be approved due to program limits.

J. If the department of environment issues a certificate of eligibility to a taxpayer stating that the taxpayer is a qualified generating facility and the taxpayer does not sequester or control carbon dioxide emissions to the extent required by this section by the later of January 1, 2017 or eighteen months after the commercial operation date of the qualified generating facility, the taxpayer's certification as a qualified generating facility shall be revoked by the department of environment and the taxpayer shall refund to the state tax credits granted pursuant to this section; provided that if the taxpayer demonstrates to the department of environment that the taxpayer made every effort to sequester or control carbon dioxide emissions to the extent feasible and the facility's inability to meet the sequestration requirements of a qualified generating facility was beyond the facility's control, in which case the department of environment shall determine, after a public hearing, the amount of the tax credit that should be refunded. The department of environment, in its determination, shall consider the environmental performance of the facility and the extent to which the inability to meet the sequestration requirements of a qualified generating facility was in the control of the taxpayer. The refund as determined by the department of environment shall be paid within one hundred eighty days following a final order by the department of environment.

K. Expenditures for which a taxpayer claims a credit pursuant to this section are ineligible for credits pursuant to the provisions of the Investment Credit Act or any other credit against compensating tax, gross receipts tax or withholding tax.

L. A taxpayer shall apply for approval for a credit within one year following the end of the calendar year in which the eligible generation plant costs are incurred.

## Chapter 229 Section 2 Laws 2007

Section 2. A new section of Chapter 62, Article 6 NMSA 1978 is enacted to read:

### "CLEAN ENERGY INVESTMENTS--AUTHORIZATION--DEPARTMENT OF ENVIRONMENT CERTIFICATION.--

A. The commission shall adopt rules to allow public utilities a reasonable opportunity to recover costs incurred by a public utility for the development and ongoing construction of a clean energy project. Such costs must not exceed the level authorized by the commission in a proceeding to establish a reasonable level of expenditure that the public utility may undertake to develop and construct a clean energy project. The public utility shall recover approved costs reasonably incurred up to the time it files a general rate case whether or not the project is in service. This section does not relieve a public utility of its duty to act reasonably and prudently as circumstances indicate once development and construction of a clean energy project begins.

B. A public utility that incurs costs to reduce harmful air emissions at new or existing power plants may seek recovery of those costs in a general rate case, regardless of whether the technology or method used qualifies as a clean energy project or advanced coal technology. If a public utility seeks cost recovery for expenditures to reduce harmful air emissions beyond levels required by law or rule, the commission may find that such expenditures are reasonable.

C. The commission, upon petition or its own motion, shall open a docket to consider appropriate performance-based financial or other incentives to encourage public utilities to develop and construct clean energy projects.

D. As used in this section:

(1) "advanced coal technology" means new coal-based generation, coal gasification or other technology using coal as a fuel source that is certified by the department of environment to meet the following specifications:

(a) emits the lesser of: 1) what is achievable with the best available control technology; or 2) thirty-five thousandths pound per million British thermal units of sulfur dioxide, twenty-five thousandths pound per million British thermal units of oxides of nitrogen and one hundredth pound per million British thermal units of total particulates in the flue gas;

(b) removes the greater of: 1) what is achievable with the best available control technology; or 2) ninety percent or more of the mercury from the input fuel;

(c) captures and sequesters or controls carbon dioxide emissions such that by the later of January 1, 2017, or eighteen months after the commercial

operation date, no more than one thousand one hundred pounds per megawatt-hour of carbon dioxide is emitted into the atmosphere;

(d) all infrastructure required for sequestration is in place by the later of January 1, 2017, or eighteen months after the commercial operation date of the qualified generating facility;

(e) includes methods and procedures to monitor the disposition of the carbon dioxide captured and sequestered from the facility; and

(f) does not exceed seven hundred net megawatts nameplate capacity;

(2) "clean energy project" means the construction or modification of a new or existing electric generation facility in a manner that employs a technology that has additional financial risk because it is not commercially established or because it employs an established technology that is not commercially proven under the altitude, geographic or resource availability conditions under which it is proposed to operate and may include associated renewable energy storage facilities, recycled energy and, for the limited purposes of this section, advanced coal technology, or other technology as deemed appropriate by the commission; a "clean energy project" shall achieve emission levels no greater than those specified for advanced coal technology and shall not include nuclear power;

(3) "development" means the study, plan, design, site, permit, engineering, assessment and determination of the economic and operational feasibility at one or more locations and may include small-scale demonstration projects, if approved by the commission, as a reasonable expenditure;

(4) "recycled energy" means energy produced by a generation unit with a name-plate capacity of not more than fifteen megawatts that converts the otherwise lost energy from exhaust stacks or pipes to electricity without combustion of additional fossil fuel; and

(5) "sequester" means to store, or chemically convert, carbon dioxide in a manner that prevents its release into the atmosphere and may include the use of geologic formations and enhanced oil, coalbed methane or natural gas recovery techniques.

E. The department of environment may issue rules governing the procedure for administering the certification provisions of this section."

## **Chapter 229 Section 3 Laws 2007**

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 994, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 230**

AN ACT

RELATING TO TAXATION; AMENDING THE PROVISIONS OF THE COUNTY EMERGENCY COMMUNICATIONS AND EMERGENCY MEDICAL SERVICES TAX TO ALLOW USE OF THE TAX FOR PROVISION OF BEHAVIORAL HEALTH SERVICES.

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

### **Chapter 230 Section 1 Laws 2007**

Section 1. Section 7-20E-22 NMSA 1978 (being Laws 2002, Chapter 14, Section 1, as amended) is amended to read:

"7-20E-22. COUNTY EMERGENCY COMMUNICATIONS AND EMERGENCY MEDICAL AND BEHAVIORAL HEALTH SERVICES TAX--AUTHORITY TO IMPOSE COUNTYWIDE OR ONLY IN THE COUNTY AREA--ORDINANCE REQUIREMENTS--USE OF REVENUE--ELECTION.--

A. The majority of the members of the governing body of an eligible county that does not have in effect a tax imposed pursuant to Subsection B of this section may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth percent of the gross receipts of a person engaging in business in the county for the privilege of engaging in business. The tax imposed by this subsection may be referred to as the "countywide emergency communications and emergency medical and behavioral health services tax".

B. The majority of the members of the governing body of an eligible county that does not have in effect a tax imposed pursuant to Subsection A of this section may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth percent of the gross receipts of a person engaging in business in the county area for the privilege of engaging in business. The tax imposed by this subsection may be referred to as the "county area emergency communications and emergency medical and behavioral health services tax".

C. The tax authorized in Subsections A and B of this section may be imposed in one or more increments of one-sixteenth percent not to exceed an aggregate rate of one-fourth percent.

D. The governing body, at the time of enacting an ordinance imposing a rate of tax authorized in Subsection A or B of this section, shall dedicate the revenue to one or more of the following purposes:

(1) operation of an emergency communications center that has been determined by the local government division of the department of finance and administration to be a consolidated public safety answering point;

(2) operation of emergency medical services provided by the county; or

(3) provision of behavioral health services, including alcohol abuse and substance abuse treatment.

E. An ordinance imposing any increment of the countywide emergency communications and emergency medical and behavioral health services tax or the county area emergency communications and emergency medical and behavioral health services tax shall not go into effect until after an election is held and a majority of the voters voting in the election votes in favor of imposing the tax. In the case of an ordinance imposing an increment of the countywide emergency communications and emergency medical and behavioral health services tax, the election shall be conducted countywide. In the case of an ordinance imposing the county area emergency communications and emergency medical and behavioral health services tax, the election shall be conducted only in the county area. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the voters as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated pursuant to Subsection D of this section. If a majority of the voters voting on the question approves the imposition of the countywide emergency communications and emergency medical and behavioral health services tax or the county area emergency communications and emergency medical and behavioral health services tax, the ordinance shall become effective in accordance with the provisions of the County Local Option Gross Receipts Taxes Act. If the question of imposing the tax fails, the governing body shall not again propose the imposition of any increment of either tax for a period of one year from the date of the election.

F. For the purposes of this section, "eligible county" means:

(1) a county that operates or, pursuant to a joint powers agreement, is served by an emergency communications center that has been determined by the local government division of the department of finance and administration to be a consolidated public safety answering point; or

(2) in the case of a county imposing the tax for the purposes provided in Paragraph (3) of Subsection D of this section, a county that operates or contracts for the operation of a behavioral health services facility providing alcohol abuse, substance abuse and inpatient and outpatient behavioral health treatment."

## **Chapter 230 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 1015

Approved April 2, 2007

## **LAWS 2007, CHAPTER 231**

AN ACT

RELATING TO ENERGY ASSISTANCE; PROVIDING FOR HOME HEATING RELIEF; REVISING THE MORATORIUM ON DISCONNECTION OF UTILITY SERVICE FOR HEATING DURING CERTAIN WINTER MONTHS; PROVIDING PAYMENT OPTIONS.

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

## **Chapter 231 Section 1 Laws 2007**

Section 1. A new Section 27-6-18.1 NMSA 1978 is enacted to read:

"27-6-18.1. PROHIBITION ON DISCONTINUANCE OR DISCONNECTION OF UTILITY SERVICE DURING THE WINTER HEATING SEASON--MINIMUM PAYMENTS--PAYMENT PLANS--EXCEPTIONS.--

A. Except as provided in Subsection C of this section, unless requested by the customer, no utility shall discontinue or disconnect service to a residential customer during the heating season for nonpayment of the customer's utility bill if the customer meets the qualifications to receive assistance pursuant to the low-income home energy assistance program from the administering authority during the program's current heating season.

B. The utility shall make payment plan options available to the customer pursuant to rules adopted by the public regulation commission.

C. If the customer does not pay the past due charges from the customer's utility bill before the beginning of the next heating season, the customer shall not be eligible for protection from discontinued or disconnected utility service pursuant to this section during that next heating season until the past due charges are paid in full.

D. A customer who has defaulted on the customer's chosen payment plan and whose utility service has been discontinued or disconnected during the nonheating season can be reconnected and maintain the protection afforded by this section by paying reconnection charges, if any, and by paying the amount due pursuant to the payment plan by the date on which service is reconnected.

E. If a customer notifies the utility that the customer needs payment assistance and if the customer requests, the utility shall promptly report the customer's request for assistance to the administering authority. The administering authority shall take prompt action to evaluate the customer's eligibility for the low-income home energy assistance program.

F. Utilities subject to this section shall make the following information available to the public regarding:

(1) the low-income home energy assistance program's:

(a) application forms;

(b) requirements for qualifying for the program;

(c) procedures for making an application; and

(d) location to which an application may be submitted; and

(2) the protection against discontinued and disconnected service set forth in this section for customers seeking assistance paying utility bills during a heating season, including:

(a) payment options; and

(b) circumstances under which disconnection or discontinuance of service may occur.

G. As used in this section:

(1) "administering authority" means the human services department or a tribal entity that administers its own low-income home energy assistance program;

(2) "current season" means the period beginning in September and continuing through August of the subsequent year;

(3) "heating season" means the period beginning November 15 and continuing through March 15 of the subsequent year;

(4) "nonheating season" means the period beginning on March 16 and continuing through November 14 of the same year; and

(5) "tribal entity" means the governing body or an agency of a federally recognized Indian nation, tribe or pueblo located in whole or in part in New Mexico."

## **Chapter 231 Section 2 Laws 2007**

Section 2. REPEAL.--Section 27-6-18 NMSA 1978 (being Laws 2005 (1st S.S.), Chapter 2, Section 2) is repealed.

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Senate Bill 1026, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 232**

AN ACT

RELATING TO PROPERTY LAW; AMENDING THE DEFINITION OF "SOLAR COLLECTOR" IN THE SOLAR RIGHTS ACT; INVALIDATING RESTRICTIONS ON THE INSTALLATION OR USE OF SOLAR COLLECTORS.

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

## **Chapter 232 Section 1 Laws 2007**

Section 1. A new section of Chapter 3, Article 18 NMSA 1978 is enacted to read:

"LIMITATION OF COUNTY AND MUNICIPAL RESTRICTIONS ON SOLAR COLLECTORS.--

A. A county or municipality shall not restrict the installation of a solar collector as defined pursuant to the Solar Rights Act, except that placement of solar collectors in historic districts may be regulated or restricted by a county or municipality.

B. A covenant, restriction or condition contained in a deed, contract, security agreement or other instrument, effective after July 1, 1978, affecting the transfer, sale or use of, or an interest in, real property that effectively prohibits the installation or use of a solar collector is void and unenforceable."

## **Chapter 232 Section 2 Laws 2007**

Section 2. Section 47-3-1 NMSA 1978 (being Laws 1977, Chapter 169, Section 1) is amended to read:

"47-3-1. SHORT TITLE.--Sections 47-3-1 through 47-3-5 NMSA 1978 may be cited as the "Solar Rights Act"."

## **Chapter 232 Section 3 Laws 2007**

Section 3. Section 47-3-3 NMSA 1978 (being Laws 1977, Chapter 169, Section 3) is amended to read:

"47-3-3. DEFINITIONS.--As used in the Solar Rights Act:

A. "solar collector" means a device, substance or element, or a combination of devices, substances or elements, that relies upon sunshine as an energy source and that is capable of collecting not less than twenty-five thousand British thermal units on a clear winter solstice day or that is used for the conveyance of light to the interior of a building. The term also includes any device, substance or element that collects solar energy for use in:

- (1) the heating or cooling of a structure or building;
- (2) the heating or pumping of water;
- (3) industrial, commercial or agricultural processes; or
- (4) the generation of electricity.

A solar collector may be used for purposes in addition to the collection of solar energy. These uses include, but are not limited to, serving as a structural member or part of a roof of a building or structure and serving as a window or wall; and

B. "solar right" means a right to an unobstructed line-of-sight path from a solar collector to the sun, which permits radiation from the sun to impinge directly on the solar collector."

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Senate Bill 1031, as amended

Approved April 2, 2007

**LAWS 2007, CHAPTER 233**

AN ACT

RELATING TO MUNICIPALITIES; EXTENDING THE REPEAL DATE OF THE HOSPITALITY FEE ACT; AMENDING LAWS 2003, CHAPTER 417,

SECTION 13.

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

**Chapter 233 Section 1 Laws 2007**

Section 1. Laws 2003, Chapter 417, Section 13 is amended to read:

"Section 13. DELAYED REPEAL.--The Hospitality Fee Act is repealed effective July 1, 2028."

**Chapter 233 Section 2 Laws 2007**

Section 2. Section 3-38A-3 NMSA 1978 (being Laws 2003, Chapter 417, Section 3) is amended to read:

"3-38A-3. HOSPITALITY FEE AUTHORIZED--RATE--PURPOSE.--

A. A municipality may impose by ordinance a hospitality fee on the gross rent received by proprietors of tourist accommodations within the municipality in an amount not to exceed one percent of the gross rent. The fee imposed by this subsection may be referred to as the "hospitality fee".

B. Proceeds from the hospitality fee shall be used as follows:

(1) fifty percent of the proceeds shall be used to equip and furnish a municipal convention center;

(2) twenty-five percent of the proceeds shall be used by the municipality to contract to purchase advertising that publicizes and promotes tourist-related attractions, facilities and events in the municipality and the county and tourist facilities or attractions within the area; and

(3) twenty-five percent of the proceeds shall be used to extinguish debt incurred by a municipality for a metropolitan court facility."

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Senate Bill 1066, as amended

Approved April 2, 2007

# LAWS 2007, CHAPTER 234

## AN ACT

RELATING TO PROCUREMENT; REQUIRING A PROCURING STATE AGENCY OR LOCAL PUBLIC BODY TO INDICATE THE APPLICABLE PUBLIC OFFICIALS FOR WHICH DISCLOSURE OF CAMPAIGN CONTRIBUTIONS BY PROSPECTIVE CONTRACTORS IS REQUIRED PURSUANT TO THE PROCUREMENT CODE; PROVIDING FOR THE ISSUANCE OF CAMPAIGN CONTRIBUTION DISCLOSURE FORMS AS PART OF REQUESTS FOR COMPETITIVE SEALED PROPOSALS; ALLOWING REMEDIES PROVIDED BY THE PROCUREMENT CODE TO BE USED FOR VIOLATIONS OF THE CAMPAIGN CONTRIBUTION DISCLOSURE REQUIREMENTS FOR PROSPECTIVE CONTRACTORS.

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

### **Chapter 234 Section 1 Laws 2007**

Section 1. Section 13-1-112 NMSA 1978 (being Laws 1984, Chapter 65, Section 85, as amended) is amended to read:

"13-1-112. COMPETITIVE SEALED PROPOSALS--REQUEST FOR PROPOSALS.--

A. Competitive sealed proposals, including competitive qualifications-based proposals, shall be solicited through a request for proposals that shall be issued and shall include:

- (1) the specifications for the services or items of tangible personal property to be procured;
- (2) all contractual terms and conditions applicable to the procurement;
- (3) the form for disclosure of campaign contributions given by prospective contractors to applicable public officials pursuant to Section 13-1-191.1 NMSA 1978; and
- (4) the location where proposals are to be received and the date, time and place where proposals are to be received and reviewed.

B. A request for proposals may, pursuant to Section 13-1-95.1 NMSA 1978, require that all or a portion of a responsive proposal be submitted electronically.

C. In the case of requests for competitive qualifications-based proposals, price shall be determined by formal negotiations related to scope of work."

## Chapter 234 Section 2 Laws 2007

Section 2. Section 13-1-191.1 NMSA 1978 (being Laws 2006, Chapter 81, Section 1) is amended to read:

"13-1-191.1. CAMPAIGN CONTRIBUTION DISCLOSURE AND PROHIBITION.--

A. This section applies to prospective contractors with the state or a local public body.

B. A prospective contractor subject to this section shall disclose all campaign contributions given by the prospective contractor or a family member or representative of the prospective contractor to an applicable public official of the state or a local public body during the two years prior to the date on which a proposal is submitted or, in the case of a sole source or small purchase contract, the two years prior to the date on which the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor or a family member or representative of the prospective contractor to the public official exceeds two hundred fifty dollars (\$250) over the two-year period.

C. The disclosure shall indicate the date, the amount, the nature and the purpose of the contribution. The disclosure statement shall be on a form developed and made available electronically by the department of finance and administration to all state agencies and local public bodies. The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor for each competitive sealed proposal, sole source or small purchase contract. The form shall be filed with the state agency or local public body as part of the competitive sealed proposal, or in the case of a sole source or small purchase contract, on the date on which the contractor signs the contract.

D. A prospective contractor submitting a disclosure statement pursuant to this section who has not contributed to an applicable public official, whose family members have not contributed to an applicable public official or whose representatives have not contributed to an applicable public official shall make a statement that no contribution was made.

E. A prospective contractor or a family member or representative of the prospective contractor shall not give a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or during the pendency of negotiations for a sole source or small purchase contract.

F. A solicitation or proposed award for a proposed contract may be canceled pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 if:

(1) a prospective contractor fails to submit a fully completed disclosure statement pursuant to this section; or

(2) a prospective contractor or family member or representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process.

G. As used in this section:

(1) "applicable public official" means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal;

(2) "family member" means a spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of:

(a) a prospective contractor, if the prospective contractor is a natural person; or

(b) an owner of a prospective contractor;

(3) "pendency of the procurement process" means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals;

(4) "prospective contractor" means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or small purchase contract; and

(5) "representative of the prospective contractor" means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor."

## **Chapter 234 Section 3 Laws 2007**

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

Approved April 2, 2007

## **LAWS 2007, CHAPTER 235**

AN ACT

RELATING TO DOMESTIC ABUSE; CREATING THE DOMESTIC VIOLENCE HOMICIDE REVIEW TEAM; PROVIDING DUTIES; ESTABLISHING CONFIDENTIALITY OF CERTAIN RECORDS AND COMMUNICATIONS; PROVIDING IMMUNITY FROM CIVIL LIABILITY.

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

### **Chapter 235 Section 1 Laws 2007**

Section 1. A new section of the Crime Victims Reparation Act is enacted to read:

"DOMESTIC VIOLENCE HOMICIDE REVIEW TEAM -- CREATION -- MEMBERSHIP -- DUTIES -- CONFIDENTIALITY -- CIVIL LIABILITY.--

A. The "domestic violence homicide review team" is created within the commission for the purpose of reviewing the facts and circumstances of domestic violence related homicides and sexual assault related homicides in New Mexico, identifying the causes of the fatalities and their relationship to government and nongovernment service delivery systems and developing methods of domestic violence prevention.

B. The team shall consist of the following members appointed by the director of the commission:

- (1) medical personnel with expertise in domestic violence;
- (2) criminologists;
- (3) representatives from the New Mexico district attorneys association;
- (4) representatives from the attorney general;
- (5) victim services providers;
- (6) civil legal services providers;
- (7) representatives from the public defender department;
- (8) members of the judiciary;

(9) law enforcement personnel;

(10) representatives from the department of health, the aging and long-term services department and the children, youth and families department who deal with domestic violence victims' issues;

(11) representatives from tribal organizations who deal with domestic violence; and

(12) any other members the director of the commission deems appropriate.

C. The domestic violence homicide review team shall:

(1) review trends and patterns of domestic violence related homicides and sexual assault related homicides in New Mexico;

(2) evaluate the responses of government and nongovernment service delivery systems and offer recommendations for improvement of the responses;

(3) identify and characterize high-risk groups for the purpose of recommending developments in public policy;

(4) collect statistical data in a consistent and uniform manner on the occurrence of domestic violence related homicides and sexual assault related homicides; and

(5) improve collaboration between tribal, state and local agencies and organizations to develop initiatives to prevent domestic violence.

D. The following items are confidential:

(1) all records, reports or other information obtained or created by the domestic violence homicide review team for the purpose of reviewing domestic violence related homicides or sexual assault related homicides pursuant to this section; and

(2) all communications made by domestic violence homicide review team members or other persons during a review conducted by the team of a domestic violence related homicide or a sexual assault related homicide.

E. The following persons shall honor the confidentiality requirements of this section and shall not make disclosure of any matter related to the team's review of a domestic violence related homicide or a sexual assault related homicide, except pursuant to appropriate court orders:

(1) domestic violence homicide review team members;

(2) persons who provide records, reports or other information to the team for the purpose of reviewing domestic violence related homicides and sexual assault related homicides; and

(3) persons who participate in a review conducted by the team.

F. Nothing in this section shall prevent the discovery or admissibility of any evidence that is otherwise discoverable or admissible merely because the evidence was presented during the review of a domestic violence related homicide or a sexual assault related homicide pursuant to this section.

G. Domestic violence homicide review team members shall not be subject to civil liability for any act related to the review of a domestic violence related homicide or a sexual assault related homicide; provided that the members act in good faith, without malice and in compliance with other state or federal law.

H. An organization, institution, agency or person who provides testimony, records, reports or other information to the domestic violence homicide review team for the purpose of reviewing domestic violence related homicides or sexual assault related homicides shall not be subject to civil liability for providing the testimony, records, reports or other information to the team; provided that the organization, institution, agency or person acts in good faith, without malice and in compliance with other state or federal law.

I. At least thirty days prior to the convening of each regular session of the legislature, the domestic violence homicide review team shall transmit a report of its activities pursuant to this section to:

- (1) the governor;
- (2) the legislative council;
- (3) the chief justice of the supreme court;
- (4) the secretary of public safety;
- (5) the secretary of children, youth and families;
- (6) the secretary of health; and
- (7) any other persons the team deems appropriate."

## **Chapter 235 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 1092, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 236**

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING FOR DUE PROCESS REIMBURSEMENT COVERAGE THROUGH THE PUBLIC SCHOOL INSURANCE AUTHORITY.

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

### **Chapter 236 Section 1 Laws 2007**

Section 1. Section 22-29-3 NMSA 1978 (being Laws 1986, Chapter 94, Section 3, as amended) is amended to read:

"22-29-3. DEFINITIONS.--As used in the Public School Insurance Authority Act:

- A. "authority" means the public school insurance authority;
- B. "board" means the board of directors of the public school insurance authority;
- C. "charter school" means a school organized as a charter school pursuant to the provisions of the Charter Schools Act;
- D. "director" means the director of the public school insurance authority;
- E. "due process reimbursement" means the reimbursement of a school district's or charter school's expenses for attorney fees, hearing officer fees and other reasonable expenses incurred as a result of a due process hearing conducted pursuant to the federal Individuals with Disabilities Education Improvement Act;
- F. "educational entities" means state educational institutions as enumerated in Article 12, Section 11 of the constitution of New Mexico and other state diploma, degree-granting and certificate-granting post-secondary educational institutions and regional education cooperatives;
- G. "fund" means the public school insurance fund;

H. "group health insurance" means coverage that includes life insurance, accidental death and dismemberment, medical care and treatment, dental care, eye care and other coverages as determined by the authority;

I. "risk-related coverage" means coverage that includes property and casualty, general liability, auto and fleet, workers' compensation and other casualty insurance; and

J. "school district" means a school district as defined in Subsection R of Section 22-1-2 NMSA 1978, excluding any school district with a student enrollment in excess of sixty thousand students."

### **Chapter 236 Section 2 Laws 2007**

Section 2. Section 22-29-4 NMSA 1978 (being Laws 1986, Chapter 94, Section 4) is amended to read:

"22-29-4. AUTHORITY CREATED.--There is created the "public school insurance authority", which is established to provide for group health insurance, other risk-related coverage and due process reimbursement with the exception of the mandatory coverage provided by the risk management division on the effective date of the Public School Insurance Authority Act."

### **Chapter 236 Section 3 Laws 2007**

Section 3. A new section of the Public School Insurance Authority Act is enacted to read:

"DUE PROCESS REIMBURSEMENT.--The authority shall include due process reimbursement in its self-insured retention risk pool. Each year, the legislature shall authorize the board to collect the due process reimbursement premium from school districts and charter schools to cover the cost of due process reimbursement. From the authorization, the board shall allocate due process reimbursement premiums based on a school district's or charter school's claims experience and other criteria determined by the board. A single due process reimbursement shall not exceed three hundred thousand dollars (\$300,000)."

### **Chapter 236 Section 4 Laws 2007**

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2008.

Approved April 2, 2007

## **LAWS 2007, CHAPTER 237**

AN ACT

RELATING TO TAXATION; PROVIDING AN EXEMPTION FROM GROSS RECEIPTS TAXES FOR THE GROSS RECEIPTS OF SALES OF GOODS BY A DISABLED STREET VENDOR.

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

### **Chapter 237 Section 1 Laws 2007**

Section 1. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"EXEMPTION--RECEIPTS FROM SALES BY DISABLED STREET VENDORS.--

A. Exempt from payment of the gross receipts tax are receipts from the sale of goods by a disabled street vendor.

B. As used in this section:

(1) "disabled" means to be blind or permanently disabled with medical improvement not expected pursuant to 42 USCA 421 for purposes of the federal Social Security Act or to have a permanent total disability pursuant to the Workers' Compensation Act; and

(2) "street vendor" means a person licensed by a local government to sell items of tangible personal property by newly setting up a sales site daily or selling the items from a moveable cart, tray, blanket or other device."

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Senate Bill 1138

Approved April 2, 2007

## **LAWS 2007, CHAPTER 238**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; CREATING THE CRIMINAL OFFENSE OF VOYEURISM; PROVIDING PENALTIES.

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

## **Chapter 238 Section 1 Laws 2007**

Section 1. A new section of the Criminal Code is enacted to read:

"VOYEURISM PROHIBITED--PENALTIES.--

A. Voyeurism consists of intentionally using the unaided eye to view or intentionally using an instrumentality to view, photograph, videotape, film, webcast or record the intimate areas of another person without the knowledge and consent of that person:

(1) while the person is in the interior of a bedroom, bathroom, changing room, fitting room, dressing room or tanning booth or the interior of any other area in which the person has a reasonable expectation of privacy; or

(2) under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

B. Whoever commits voyeurism is guilty of a misdemeanor, except if the victim is less than eighteen years of age, the offender is guilty of a fourth degree felony.

C. As used in this section:

(1) "intimate areas" means the primary genital area, groin, buttocks, anus or breasts or the undergarments that cover those areas; and

(2) "instrumentality" means a periscope, telescope, binoculars, camcorder, computer, motion picture camera, digital camera, telephone camera, photographic camera or electronic device of any type."

## **Chapter 238 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Corporations and Transportation

Committee Substitute for

Senate Bill 1207, as amended

Approved April 2, 2007

# **LAWS 2007, CHAPTER 239**

## **AN ACT**

RELATING TO EDUCATION; ENACTING THE MATHEMATICS AND SCIENCE EDUCATION ACT; CREATING THE MATHEMATICS AND SCIENCE BUREAU IN THE PUBLIC EDUCATION DEPARTMENT; CREATING AN ADVISORY COUNCIL; CREATING A FUND.

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

### **Chapter 239 Section 1 Laws 2007**

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

"SHORT TITLE.--This act may be cited as the "Mathematics and Science Education Act"."

### **Chapter 239 Section 2 Laws 2007**

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

"DEFINITIONS.--As used in the Mathematics and Science Education Act:

- A. "bureau" means the mathematics and science bureau;
- B. "chief" means the chief of the bureau; and
- C. "council" means the mathematics and science advisory council."

### **Chapter 239 Section 3 Laws 2007**

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

"BUREAU CREATED--DUTIES.--

A. The "mathematics and science bureau" is created in the department. The secretary shall appoint the chief as provided in the Public Education Department Act.

B. The bureau shall:

Act; (1) administer the provisions of the Mathematics and Science Education

(2) provide staff support for and coordinate the activities of the council;

(3) work with the council to develop a statewide strategic plan for mathematics and science education in the public schools and coordinate education activities with other state agencies, the federal government, business consortia and public or private organizations or other persons;

(4) ensure that school districts' plans include goals for improving mathematics and science education aligned to the department's strategic plan;

(5) recommend funding mechanisms that support the improvement of mathematics and science education in the state, including web-based mathematics and science curricula, mentoring and web-based homework assistance;

(6) promote partnerships among public schools, higher education institutions, government, business and educational and community organizations to improve the mathematics and science education in the state;

(7) develop and evaluate curricula, instructional programs and professional development programs in mathematics and science aligned with state academic content and performance standards; and

(8) assess the outcomes of efforts to improve mathematics and science education using existing data."

## **Chapter 239 Section 4 Laws 2007**

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

"MATHEMATICS AND SCIENCE ADVISORY COUNCIL -- CREATED -- MEMBERS -- TERMS -- VACANCIES.--

A. The "mathematics and science advisory council" is created, composed of twelve members. Members of the council shall be appointed by the secretary for staggered terms of four years; provided that for the initial appointments, four members shall be appointed for two years, four members shall be appointed for three years and four members shall be appointed for four years. Members shall serve until their successors have been appointed and qualified. A vacancy shall be filled by appointment by the secretary for the unexpired term.

B. Using a statewide application process, the secretary shall appoint members from throughout the state so as to ensure representation of the state's demographics, including geographic distribution, gender and ethnic diversity and as follows:

(1) four members from public schools, including at least two mathematics and science teachers and a school district administrator with experience in mathematics and science curricula;

(2) three members from public post-secondary educational institutions with expertise in mathematics or science education;

(3) four members from the private sector, including the national laboratories, museums and science- and engineering-based businesses; and

(4) one member who represents the New Mexico partnership for mathematics and science education.

C. Members of the council shall elect a chair from among the membership. The council shall meet at the call of the chair not less than quarterly.

D. Members of the council are entitled to receive per diem and mileage pursuant to the provisions of the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance."

## **Chapter 239 Section 5 Laws 2007**

Section 5. A new section of the Public School Code is enacted to read:

"COUNCIL DUTIES.--The council shall:

A. advise the bureau on implementation of the bureau's duties pursuant to the Mathematics and Science Education Act;

B. make recommendations to the bureau and the department regarding the statewide strategic plan for improving mathematics and science education and advise on its implementation and incorporation into the department's five-year strategic plan for public elementary and secondary education in the state;

C. advise the bureau, the department and the legislature regarding appropriations for mathematics and science education, administration, resources and services, including programs for public school students and staff;

D. work with the bureau to determine the need for improvement in mathematics and science achievement of public school students and make recommendations to the department on how to meet these needs; and

E. produce an annual report on public elementary and secondary mathematics and science student achievement to be submitted to the department, the governor and the legislature no later than November 30 of each year."

## **Chapter 239 Section 6 Laws 2007**

Section 6. A new section of the Public School Code is enacted to read:

"MATHEMATICS AND SCIENCE PROFICIENCY FUND--CREATED--  
PURPOSE--ANNUAL REPORTS.--

A. The "mathematics and science proficiency fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations and income from investment of the fund. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of public education or the secretary's authorized representative.

B. The fund shall be administered by the department, and money in the fund is appropriated to the department to provide awards to public schools, school districts, public post-secondary educational institutions and persons that implement innovative, research-based mathematics and science curricula and professional development programs. The department shall promulgate rules for the application and award of money from the fund, including criteria to evaluate innovative, research-based mathematics and science programs and professional development programs.

C. Each award recipient shall provide an annual report to the bureau that includes a detailed budget report, a description of the services provided and documented evidence of the stated outcomes of the program funded by the mathematics and science proficiency fund and that provides other information requested by the bureau."

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Senate Bill 552, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 240**

### **AN ACT**

RELATING TO PUBLIC FINANCES; PROVIDING FOR INDEPENDENT AUDITS BY  
PUBLIC HOUSING AUTHORITIES.

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

### **Chapter 240 Section 1 Laws 2007**

Section 1. Section 12-6-3 NMSA 1978 (being Laws 1969, Chapter 68, Section 3, as amended) is amended to read:

"12-6-3. ANNUAL AND SPECIAL AUDITS.--

A. The financial affairs of every agency shall be thoroughly examined and audited each year by the state auditor, personnel of the state auditor's office designated by the state auditor or independent auditors approved by the state auditor. The comprehensive annual financial report for the state shall be thoroughly examined and audited each year by the state auditor, personnel of the state auditor's office designated by the state auditor or independent auditors approved by the state auditor. The audits shall be conducted in accordance with generally accepted auditing standards and rules issued by the state auditor.

B. In addition to the annual audit, the state auditor may cause the financial affairs and transactions of an agency to be audited in whole or in part.

C. Annual financial and compliance audits of agencies under the oversight of the financial control division of the department of finance and administration shall be completed and submitted by an agency and independent auditor to the state auditor no later than sixty days after the state auditor receives notification from the financial control division to the effect that an agency's books and records are ready and available for audit.

D. In order to comply with United States department of housing and urban development requirements, the financial affairs of a public housing authority that is determined to be a component unit in accordance with generally accepted accounting principles, other than a housing department of a local government or a regional housing authority, at the public housing authority's discretion, may be audited separately from the audit of its local primary government entity. If a separate audit is made, the public housing authority audit shall be included in the local primary government entity audit and need not be conducted by the same auditor who audits the financial affairs of the local primary government entity."

## **Chapter 240 Section 2 Laws 2007**

Section 2. Section 12-6-4 NMSA 1978 (being Laws 1969, Chapter 68, Section 4) is amended to read:

"12-6-4. AUDITING COSTS.--The reasonable cost of all audits shall be borne by the agency audited, except that:

A. a public housing authority other than a regional housing authority shall not bear the cost of an audit conducted solely at the request of its local primary government entity; and

B. the administrative office of the courts shall bear the cost of auditing the magistrate courts. A metropolitan court shall be treated as a single agency for the purpose of audit and shall be audited as a unit, and the cost of the audit shall be paid from the appropriation to the metropolitan court. The district courts of all counties within a judicial district shall be treated as a single agency for the purpose of audit and shall be

audited as a unit, and the cost of the audit shall be paid from the appropriation to each judicial district. The court clerk trust account and the state treasurer account of each county's district court shall be included within the scope of the judicial district audit."

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Senate Bill 263, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 241**

AN ACT

RELATING TO PUBLIC HOLIDAYS; CREATING FIREFIGHTER DAY OF REMEMBRANCE ON SEPTEMBER 11.

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

### **Chapter 241 Section 1 Laws 2007**

Section 1. A new section of Chapter 12, Article 5

NMSA 1978 is enacted to read:

"FIREFIGHTER DAY OF REMEMBRANCE.--September 11 of each year shall be set apart and known as "Firefighter Day of Remembrance", celebrating the important, brave and compassionate work of firefighters and honoring all firefighters who have fallen in the line of duty."

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Senate Bill 925

Approved April 2, 2007

## **LAWS 2007, CHAPTER 242**

AN ACT

RELATING TO THE DESECRATION OF ROADSIDE MEMORIALS; ESTABLISHING PENALTIES.

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

## **Chapter 242 Section 1 Laws 2007**

Section 1. A new section of the Criminal Code is enacted to read:

"DESECRATION OF ROADSIDE MEMORIALS--PENALTY.--

A. A person shall not knowingly or willfully deface or destroy, in whole or in part, a descanso, also known as a memorial, placed alongside a public road right of way to memorialize the death of one or more persons.

B. A person who violates the provisions of Subsection A of this section is:

(1) for a first offense, guilty of a petty misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978; and

(2) for a second and subsequent offense, guilty of a misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

C. The provisions of this section shall not apply to law enforcement officials or other employees of the state or a political subdivision of the state who in the course of the lawful discharge of their duties move or remove a descanso that obstructs or damages any public road in this state or to an owner of private property upon which a descanso is located."

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Senate Bill 478, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 243**

AN ACT

RELATING TO WILDLIFE; PROVIDING FOR ENHANCEMENT AUTHORIZATION PACKAGES TO FINANCE HABITAT ENHANCEMENT, CONSERVATION AND PROTECTION.

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

## **Chapter 243 Section 1 Laws 2007**

Section 1. A new section of Chapter 17 NMSA 1978 is enacted to read:

"ENHANCEMENT AUTHORIZATION PACKAGES--HABITAT ENHANCEMENT.-  
-The state game commission shall adopt rules for the department of game and fish to issue enhancement authorization packages each license year for the taking of one each of elk, deer, oryx, ibex and pronghorn antelope. Each enhancement authorization package shall be auctioned by the department of game and fish or by an incorporated nonprofit organization dedicated to the conservation of wildlife and sold to the highest bidder. Money collected from the enhancement authorization packages shall be deposited in the game protection fund and shall be used exclusively for big game habitat enhancement, conservation and protection."

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Senate Bill 286, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 244**

AN ACT

RELATING TO INSURANCE; INCLUDING PHARMACISTS AND PHARMACIST CLINICIANS AS PROVIDERS OF SERVICE.

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

### **Chapter 244 Section 1 Laws 2007**

Section 1. Section 59A-46-2 NMSA 1978 (being Laws 1993, Chapter 266, Section 2) is amended to read:

"59A-46-2. DEFINITIONS.--As used in the Health Maintenance Organization Law:

A. "basic health care services":

(1) means medically necessary services consisting of preventive care, emergency care, inpatient and outpatient hospital and physician care, diagnostic laboratory, diagnostic and therapeutic radiological services and services of pharmacists and pharmacist clinicians; but

(2) does not include mental health services or services for alcohol or drug abuse, dental or vision services or long-term rehabilitation treatment;

B. "capitated basis" means fixed per member per month payment or percentage of premium payment wherein the provider assumes the full risk for the cost of

contracted services without regard to the type, value or frequency of services provided and includes the cost associated with operating staff model facilities;

C. "carrier" means a health maintenance organization, an insurer, a nonprofit health care plan or other entity responsible for the payment of benefits or provision of services under a group contract;

D. "copayment" means an amount an enrollee must pay in order to receive a specific service that is not fully prepaid;

E. "deductible" means the amount an enrollee is responsible to pay out-of-pocket before the health maintenance organization begins to pay the costs associated with treatment;

F. "enrollee" means an individual who is covered by a health maintenance organization;

G. "evidence of coverage" means a policy, contract or certificate showing the essential features and services of the health maintenance organization coverage that is given to the subscriber by the health maintenance organization or by the group contract holder;

H. "extension of benefits" means the continuation of coverage under a particular benefit provided under a contract or group contract following termination with respect to an enrollee who is totally disabled on the date of termination;

I. "grievance" means a written complaint submitted in accordance with the health maintenance organization's formal grievance procedure by or on behalf of the enrollee regarding any aspect of the health maintenance organization relative to the enrollee;

J. "group contract" means a contract for health care services that by its terms limits eligibility to members of a specified group and may include coverage for dependents;

K. "group contract holder" means the person to whom a group contract has been issued;

L. "health care services" means any services included in the furnishing to any individual of medical, mental, dental, pharmaceutical or optometric care or hospitalization or nursing home care or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing or healing human physical or mental illness or injury;

M. "health maintenance organization" means any person who undertakes to provide or arrange for the delivery of basic health care services to enrollees on a prepaid basis, except for enrollee responsibility for copayments or deductibles;

N. "health maintenance organization agent" means a person who solicits, negotiates, effects, procures, delivers, renews or continues a policy or contract for health maintenance organization membership or who takes or transmits a membership fee or premium for such a policy or contract, other than for himself, or a person who advertises or otherwise holds himself out to the public as such;

O. "individual contract" means a contract for health care services issued to and covering an individual and it may include dependents of the subscriber;

P. "insolvent" or "insolvency" means that the organization has been declared insolvent and placed under an order of liquidation by a court of competent jurisdiction;

Q. "managed hospital payment basis" means agreements in which the financial risk is related primarily to the degree of utilization rather than to the cost of services;

R. "net worth" means the excess of total admitted assets over total liabilities, but the liabilities shall not include fully subordinated debt;

S. "participating provider" means a provider as defined in Subsection U of this section who, under an express contract with the health maintenance organization or with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than copayment or deductible, directly or indirectly from the health maintenance organization;

T. "person" means an individual or other legal entity;

U. "provider" means a physician, pharmacist, pharmacist clinician, hospital or other person licensed or otherwise authorized to furnish health care services;

V. "replacement coverage" means the benefits provided by a succeeding carrier;

W. "subscriber" means an individual whose employment or other status, except family dependency, is the basis for eligibility for enrollment in the health maintenance organization or, in the case of an individual contract, the person in whose name the contract is issued;

X. "uncovered expenditures" means the costs to the health maintenance organization for health care services that are the obligation of the health maintenance organization, for which an enrollee may also be liable in the event of the health maintenance organization's insolvency and for which no alternative arrangements have been made that are acceptable to the superintendent;

Y. "pharmacist" means a person licensed as a pharmacist pursuant to the Pharmacy Act; and

Z. "pharmacist clinician" means a pharmacist who exercises prescriptive authority pursuant to the Pharmacist Prescriptive Authority Act."

## **Chapter 244 Section 2 Laws 2007**

Section 2. Section 59A-47-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 879.1, as amended) is amended to read:

"59A-47-3. DEFINITIONS.--As used in Chapter 59A, Article 47 NMSA 1978:

A. "health care" means the treatment of persons for the prevention, cure or correction of any illness or physical or mental condition, including optometric services;

B. "item of health care" includes any services or materials used in health care;

C. "health care expense payment" means a payment for health care to a purveyor on behalf of a subscriber, or such a payment to the subscriber;

D. "purveyor" means a person who furnishes any item of health care and charges for that item;

E. "service benefit" means a payment that the purveyor has agreed to accept as payment in full for health care furnished the subscriber;

F. "indemnity benefit" means a payment that the purveyor has not agreed to accept as payment in full for health care furnished the subscriber;

G. "subscriber" means any individual who, because of a contract with a health care plan entered into by or for the individual, is entitled to have health care expense payments made on the individual's behalf or to the individual by the health care plan;

H. "underwriting manual" means the health care plan's written criteria, approved by the superintendent, that defines the terms and conditions under which subscribers may be selected. The underwriting manual may be amended from time to time, but amendment will not be effective until approved by the superintendent. The superintendent shall notify the health care plan filing the underwriting manual or the amendment thereto of the superintendent's approval or disapproval thereof in writing within thirty days after filing or within sixty days after filing if the superintendent shall so extend the time. If the superintendent fails to act within such period, the filing shall be deemed to be approved;

I. "acquisition expenses" includes all expenses incurred in connection with the solicitation and enrollment of subscribers;

J. "administration expenses" means all expenses of the health care plan other than the cost of health care expense payments and acquisition expenses;

K. "health care plan" means a nonprofit corporation authorized by the superintendent to enter into contracts with subscribers and to make health care expense payments;

L. "agent" means a person appointed by a health care plan authorized to transact business in this state to act as its representative in any given locality for soliciting health care policies and other related duties as may be authorized;

M. "solicitor" means a person employed by the licensed agent of a health care plan for the purpose of soliciting health care policies and other related duties in connection with the handling of the business of the agent as may be authorized and paid for the person's services either on a commission basis or salary basis or part by commission and part by salary;

N. "chiropractor" means any person holding a license provided for in the Chiropractic Physician Practice Act;

O. "doctor of oriental medicine" means any person licensed as a doctor of oriental medicine under the Acupuncture and Oriental Medicine Practice Act;

P. "pharmacist" means a person licensed as a pharmacist pursuant to the Pharmacy Act; and

Q. "pharmacist clinician" means a pharmacist who exercises prescriptive authority pursuant to the Pharmacist Prescriptive Authority Act."

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Senate Bill 1097

Approved April 2, 2007

## **LAWS 2007, CHAPTER 245**

### **AN ACT**

RELATING TO PROFESSIONAL AND OCCUPATIONAL LICENSES; CHANGING INTERIOR DESIGN BOARD MEMBER REQUIREMENTS; PROVIDING FOR THE LICENSURE OF INTERIOR DESIGNERS; AMENDING CERTAIN SECTIONS OF THE NMSA 1978.

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

## **Chapter 245 Section 1 Laws 2007**

Section 1. Section 61-24C-2 NMSA 1978 (being Laws 1989, Chapter 53, Section 2) is amended to read:

"61-24C-2. FINDINGS.--The legislature finds that it will benefit and protect the citizens of the state to require the licensing of interior designers and prohibit the use of the designation licensed "interior designer" by unlicensed persons."

## **Chapter 245 Section 2 Laws 2007**

Section 2. Section 61-24C-3 NMSA 1978 (being Laws 1989, Chapter 53, Section 3) is amended to read:

"61-24C-3. DEFINITIONS.--As used in the Interior Designers Act:

A. "board" means the interior design board;

B. "interior design" means services that do not necessarily require performance by an architect, such as administering contracts for fabrication, procurement or installation in the implementation of designs, drawings and specifications for any interior design project and consultations, studies, drawings and specifications in connection with reflected ceiling plans, space utilization, furnishings or the fabrication of nonstructural elements within and surrounding interior spaces of buildings, but specifically excluding mechanical and electrical systems, except for specifications of fixtures and their location within interior spaces; and

C. "licensed interior designer" or "licensed designer" means a person licensed pursuant to the Interior Designers Act."

## **Chapter 245 Section 3 Laws 2007**

Section 3. Section 61-24C-4 NMSA 1978 (being Laws 1989, Chapter 53, Section 4, as amended) is amended to read:

"61-24C-4. INTERIOR DESIGN BOARD CREATED -- MEMBERS -- TERMS -- COMPENSATION.--

A. There is created the "interior design board". The board shall be administratively attached to the regulation and licensing department. The board shall consist of five members appointed by the governor for staggered terms of three years, appointed in a manner that the term of one member shall expire on December 31, 1990; the terms of two members shall expire on December 31, 1991; and the terms of the last two members shall expire on December 31, 1992. Thereafter, members shall be appointed for terms of three years or less in a manner that the terms of not more than two members expire on December 31 of each year. A vacancy shall be filled by

appointment by the governor for the unexpired term. A board member shall not serve consecutive terms.

B. All members of the board shall be residents of New Mexico. No more than two members shall be appointed from the same congressional district. Three members of the board shall be licensed interior designers and two members shall be chosen to represent the public and shall not have been licensed as interior designers or have a significant financial interest, direct or indirect, in the occupation regulated. For purposes of this section, the interior designer members of the initial board shall have offered interior design services for at least five years, shall have passed the national council for interior design qualification examination and shall have become registered by November 1, 1989.

C. Three members of the board shall constitute a quorum for the transaction of business, but no final action shall be taken unless at least three members vote in favor of a proposal."

## **Chapter 245 Section 4 Laws 2007**

Section 4. Section 61-24C-5 NMSA 1978 (being Laws 1989, Chapter 53, Section 5, as amended) is amended to read:

"61-24C-5. POWERS AND DUTIES OF THE BOARD.--The board:

A. shall administer, coordinate and enforce the provisions of the Interior Designers Act. The board may investigate allegations of violations of the provisions of the Interior Designers Act;

B. shall adopt regulations to carry out the purposes and policies of the Interior Designers Act, including regulations relating to professional conduct, standards of performance and professional examination and licensure, reasonable license, application, renewal and late fees and the establishment of ethical standards of practice for a licensed interior designer in New Mexico;

C. shall require a licensee, as a condition of the renewal of the license, to undergo continuing education requirements as set forth in the Interior Designers Act;

D. shall maintain an official roster showing the name, address and license number of each interior designer licensed pursuant to the Interior Designers Act;

E. shall conduct hearings and keep records and minutes necessary to carry out its functions;

F. may adopt a common seal for use by licensed interior designers; and

G. shall do all things reasonable and necessary to carry out the purposes of the Interior Designers Act."

## **Chapter 245 Section 5 Laws 2007**

Section 5. Section 61-24C-10 NMSA 1978 (being Laws 1989, Chapter 53, Section 10) is amended to read:

"61-24C-10. LICENSE -- ISSUANCE -- RENEWAL -- DENIAL, SUSPENSION OR REVOCATION.--

A. A license shall be issued to every person who presents satisfactory evidence of possessing the qualifications of education, experience and, as appropriate, the examination performance required by the provisions of the Interior Designers Act, provided that the applicant has reached the age of majority and pays the required fees.

B. Each original license shall authorize the holder to use the title of and be known as a licensed interior designer from the date of issuance to the next renewal date unless the license is suspended or revoked.

C. All licenses shall expire annually and shall be renewed by submitting a completed renewal application, accompanied by the required fees.

D. A license may not be renewed until the licensee submits satisfactory evidence to the board that, during the last year, the licensee has participated in not less than eight hours of continuing education approved by the board. The board shall approve only continuing education that builds upon basic knowledge of interior design. The board may make exceptions from the continuing education requirement in emergency or hardship cases.

E. The holder of a license that has expired through failure to renew may renew the license at any time within two years from the date on which the license expired, upon approval of the board.

F. The board may promulgate policies and procedures providing for the establishment of an inactive status for licensees temporarily not engaged in the practice of interior design.

G. In accordance with the provisions of the Uniform Licensing Act, the board may deny, refuse to renew, suspend or revoke a license or impose probationary conditions when the licensee has:

(1) obtained the license by means of fraud, misrepresentation or concealment of material facts;

(2) committed an act of fraud or deceit in professional conduct or been convicted of a felony;

(3) made any representation as being a licensed interior designer prior to being issued a license, except as authorized under the provisions of the Interior Designers Act;

(4) been found by the board to have aided or abetted an unlicensed person in violating the provisions of the Interior Designers Act; or

(5) failed to comply with the provisions of the Interior Designers Act or regulations adopted pursuant to that act."

## **Chapter 245 Section 6 Laws 2007**

Section 6. Section 61-24C-11 NMSA 1978 (being Laws 1989, Chapter 53, Section 11) is amended to read:

"61-24C-11. LICENSE REQUIRED--PENALTY.--

A. After the results of the first examination held pursuant to the Interior Designers Act are announced, no person shall knowingly:

(1) use the name or title of licensed interior designer when the person is not the holder of a current, valid license issued pursuant to the Interior Designers Act;

(2) use or present as the person's own the license of another;

(3) give false or forged evidence to the board or a board member for the purpose of obtaining a license;

(4) use or attempt to use an interior design license that has been suspended, revoked or placed on inactive status; or

(5) conceal information relative to violations of the Interior Designers Act.

B. A person who violates a provision of this section is guilty of a misdemeanor and shall be sentenced under the provisions of the Criminal Sentencing Act to imprisonment in the county jail for a definite term of less than one year or to the payment of a fine of not more than one thousand dollars (\$1,000) or to both imprisonment or fine, in the discretion of the judge."

## **Chapter 245 Section 7 Laws 2007**

Section 7. Section 61-24C-12 NMSA 1978 (being Laws 1989, Chapter 53, Section 12) is amended to read:

"61-24C-12. PENALTIES LEVIED BY THE BOARD.--Upon a finding by the board of a violation of the provisions of the Interior Designers Act, the board may:

- A. refuse to approve an application for licensure;
- B. refuse to renew an existing license;
- C. revoke or suspend a license;
- D. impose an administrative fine;
- E. issue a reprimand;
- F. assess the costs of disciplinary proceedings, as provided in the Uniform Licensing Act; or
- G. invoke any combination of the above listed penalties."

## **Chapter 245 Section 8 Laws 2007**

Section 8. Section 61-24C-13 NMSA 1978 (being Laws 1989, Chapter 53, Section 13) is amended to read:

"61-24C-13. EXEMPTIONS.--

A. Nothing in the Interior Designers Act shall be construed as preventing or restricting the practice, services or activities of:

Act; (1) engineers licensed pursuant to the Engineering and Surveying Practice

(2) architects licensed pursuant to the Architectural Act;

Act; (3) contractors licensed pursuant to the Construction Industries Licensing

(4) any interior decorator or individual offering interior decorating services, including but not limited to selection of surface materials, window treatments, wall coverings, paint, floor coverings and lighting fixtures; and

(5) builders, home furnishings salespersons and similar purveyors of goods and services relating to homemaking.

B. Nothing contained in the Interior Designers Act shall prevent any person from rendering or offering to render any of the services that constitute the practice of interior design, provided that such person shall not be permitted to use or be identified by the

title "licensed interior designer" unless licensed in accordance with the provisions of that act or as otherwise provided by law.

C. Nothing in the Interior Designers Act shall be construed to permit a licensed interior designer to engage in the practice of engineering as defined in the Engineering and Surveying Practice Act."

## **Chapter 245 Section 9 Laws 2007**

Section 9. Section 61-24C-15 NMSA 1978 (being Laws 1989, Chapter 53, Section 15) is amended to read:

"61-24C-15. DISCLOSURE REQUIREMENTS.--

A. Interior design documents prepared by a licensed interior designer shall contain a statement that the document is not an architectural or engineering study, drawing, specification or design and is not to be used as the basis for construction of any load-bearing framing, wall or structure construction.

B. Before entering into a contract, a licensed interior designer shall clearly determine the scope and nature of the project and the methods of compensation. The licensed interior designer may offer professional services to the client as a consultant, specifier or supplier on the basis of a fee, percentage or mark-up. The licensed interior designer shall have the responsibility of fully disclosing to the client the manner in which all compensation is to be paid.

C. A licensed interior designer shall not accept any form of compensation from a supplier of goods and services in cash or in kind, unless the licensed interior designer first informs the client of the compensation."

## **Chapter 245 Section 10 Laws 2007**

Section 10. Section 61-24C-16 NMSA 1978 (being Laws 1989, Chapter 53, Section 16) is amended to read:

"61-24C-16. FUND ESTABLISHED--DISPOSITION--METHOD OF PAYMENT.--

A. There is created the "interior design board fund".

B. All funds received by the board and money collected under the Interior Designers Act shall be deposited with the state treasurer. The state treasurer shall credit the money to the interior design board fund.

C. Payments out of the interior design board fund shall be on vouchers issued by the secretary-treasurer of the board upon warrants drawn by the department of finance and administration in accordance with the budget approved by that department.

D. All amounts paid to the interior design board fund are subject to appropriation by the legislature and shall be used only for meeting necessary expenses incurred in executing the provisions and duties of the Interior Designers Act and for promoting interior design education and standards in the state. All money unused at the end of any fiscal year shall remain in the interior design board fund for use in accordance with the provisions of that act."

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Senate Bill 535, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 246**

AN ACT

RELATING TO PUBLIC ASSISTANCE; PROVIDING A STATUTE OF LIMITATIONS ON THIRD PARTY LIABILITY CLAIMS; AMENDING A SECTION OF THE NMSA 1978.

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

### **Chapter 246 Section 1 Laws 2007**

Section 1. Section 27-2-23 NMSA 1978 (being Laws 1969, Chapter 232, Section 1) is amended to read:

"27-2-23. THIRD PARTY LIABILITY.--

A. The income support division of the department shall make reasonable efforts to ascertain any legal liability of third parties who are or may be liable to pay all or part of the medical cost of injury, disease or disability of an applicant for or recipient of medical assistance pursuant to the provisions of Chapter 27 NMSA 1978.

B. When the department makes medical assistance payments on behalf of a recipient, the department is subrogated to any right of the recipient against a third party for recovery of medical expenses to the extent that the department has made payment.

C. Health insurers, including self-insured plans, group health plans, service benefit plans, managed care organizations, pharmacy benefit managers or other parties, that are, by statute, contract or agreement, legally responsible for payment of a claim for a health care item or service, as a condition of doing business with New Mexico, shall:

(1) provide, with respect to individuals who are eligible for or are provided medical assistance under the medicaid program, upon the request of the state,

information to determine during what period the individual, the individual's spouse or the individual's dependents may be, or may have been, covered by a health insurer and the nature of the coverage provided by the health insurer, including the name, address and identifying number of the plan;

(2) accept New Mexico's right of recovery and the assignment to New Mexico of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the medicaid program;

(3) respond to any inquiry by New Mexico regarding a claim for payment for any health care item or service that is submitted no later than three years after the date of the provision of such health care item or service; and

(4) agree not to deny a claim submitted by New Mexico solely on the basis of the date of submission of the claim by the provider, the type of the claim form or a failure to present proper documentation at the point-of-sale that is the basis of the claim, if:

(a) the claim is submitted by New Mexico within the three-year period beginning on the date on which the item or service was furnished; and

(b) any action by New Mexico to enforce its rights with respect to such claim is commenced within six years of New Mexico's submission of such claim.

D. Nothing in this section shall be construed to preclude the application of common law principles in determining equitable reimbursement from any third-party source for New Mexico or a health insurer, including self-insured plans, group health plans, service benefit plans, managed care organizations, pharmacy benefit managers or other parties."

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Senate Bill 411, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 247**

AN ACT

RELATING TO EDUCATION; BROADENING THE SCOPE OF UNIVERSITY RESEARCH AND ECONOMIC DEVELOPMENT; AMENDING CERTAIN SECTIONS OF THE NMSA 1978.

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

## **Chapter 247 Section 1 Laws 2007**

Section 1. Section 21-28-1 NMSA 1978 (being Laws 1989, Chapter 264, Section 1) is amended to read:

"21-28-1. SHORT TITLE.--Chapter 21, Article 28 NMSA 1978 may be cited as the "University Research Park and Economic Development Act"."

## **Chapter 247 Section 2 Laws 2007**

Section 2. Section 21-28-2 NMSA 1978 (being Laws 1989, Chapter 264, Section 2, as amended) is amended to read:

"21-28-2. RESEARCH PARK--PURPOSE.--The purpose of the University Research Park and Economic Development Act is to:

- A. promote the public welfare and prosperity of the people of New Mexico;
- B. foster economic development within New Mexico;
- C. forge links between New Mexico's educational institutions, business and industrial communities and government through the development of research parks on university real property; or
- D. engage in other cooperative ventures of innovative technological significance that will advance education, science, research, conservation, health care or economic development within New Mexico."

## **Chapter 247 Section 3 Laws 2007**

Section 3. Section 21-28-3 NMSA 1978 (being Laws 1989, Chapter 264, Section 3, as amended) is amended to read:

"21-28-3. DEFINITIONS.--As used in the University Research Park and Economic Development Act:

- A. "bond" or "bonds" means any bond, note or other evidence of indebtedness;
- B. "regents" means:
  - (1) in the case of an educational institution named in Article 12, Section 11 of the constitution of New Mexico, the board of regents of the institution;
  - (2) in the case of a community college, the community college board; or

(3) in the case of a technical and vocational institute, the governing board of the technical and vocational institute district;

C. "research park" means research and development facilities, research institutes, testing laboratories, buildings, offices, light manufacturing, utility facilities, health care facilities, related businesses, government installations and similar facilities, including land and projects for the development of real property; all necessary appurtenances; and rights and franchises acquired, constructed, managed and developed by a university or under its authority that are suitable or necessary to promote the social welfare of New Mexico through the advancement of education, science, research, conservation, health care, economic development and related purposes regardless of whether the activities conducted in those facilities are directly related to research;

D. "research park corporation" means any corporation formed pursuant to the provisions of the University Research Park and Economic Development Act;

E. "technological innovations" means research, development, prototype assembly, manufacture, patenting, licensing, marketing and sale of inventions, ideas, practices, applications, processes, machines, technology and related property rights of all kinds; and

F. "university" means:

(1) a New Mexico educational institution named in Article 12, Section 11 of the constitution of New Mexico;

(2) a community college organized pursuant to the Community College Act; or

(3) a technical and vocational institute organized pursuant to the Technical and Vocational Institute Act."

## **Chapter 247 Section 4 Laws 2007**

Section 4. Section 21-28-4 NMSA 1978 (being Laws 1989, Chapter 264, Section 4) is amended to read:

"21-28-4. RESEARCH PARK CORPORATIONS -- AUTHORIZATION -- MEMBERS -- TERMS -- MEETINGS -- BYLAWS.--

A. Any university may form, pursuant to the provisions of the Nonprofit Corporation Act or the Business Corporation Act, one or more research park corporations, separate and apart from the state and the university, to promote, develop and administer research parks or technological innovations for scientific, educational and economic development opportunities in accordance with bylaws adopted by the

research park corporation or economic development initiatives that support the teaching, research or service mission of the university.

B. Each research park corporation shall be governed by, and all of its functions, powers and duties shall be exercised by, a board of directors appointed by the regents. Members of the board of directors may include the president of the university, the regents, officers and employees of the university and other persons selected by the regents.

C. The board of directors shall elect a chair and other officers as the board of directors deems necessary.

D. The board of directors shall adopt bylaws, in accordance with the provisions of the Nonprofit Corporation Act or the Business Corporation Act, as appropriate, governing the conduct of the research park corporation in the performance of its duties under the University Research Park and Economic Development Act."

## **Chapter 247 Section 5 Laws 2007**

Section 5. Section 21-28-5 NMSA 1978 (being Laws 1989, Chapter 264, Section 5) is amended to read:

"21-28-5. POWERS OF UNIVERSITY AS RELATED TO RESEARCH PARKS.--

A. The regents of each university shall have the power to implement and further the purposes of the University Research Park and Economic Development Act, including the power:

(1) to establish, acquire, develop, maintain and operate research parks, including all necessary or suitable buildings, facilities and improvements, and to acquire, purchase, construct, improve, remodel, add to, extend, maintain, equip and furnish research parks or any building or facility, including research and service facilities and areas intended for the common use of research park tenants;

(2) to form research park corporations to aid and assist the university to acquire, construct, finance, operate and manage research parks;

(3) to form research park corporations to engage in economic development activities that support the teaching, research and service mission of the university, including creating learning opportunities for the students of the university;

(4) to lease, sell, exchange or transfer to research park corporations personal property, money and all or part of the land and facilities included in a research park, on terms and conditions established by the regents that are fair, just and reasonable to the university, and to enter into any other contract or agreement with the

research park corporation for the construction, financing, operation and management of the research park;

(5) to lease, either directly or through a research park corporation, to any person, firm, partnership, government entity or any other lawful entity recognized under the laws of the state, any part or all of the land, buildings and facilities of the research park under guidelines established by the regents;

(6) to allow a lessee, exchanger or purchaser of university land to acquire or construct necessary or suitable buildings, facilities and improvements upon university land; provided that any improvements acquired or constructed upon university land during the term of any lease of university land shall revert to and become the property of the university on termination of the lease or any renewal or extension;

(7) to construct buildings, facilities and improvements and to acquire, purchase, construct, improve, remodel, add to, extend, maintain, equip and furnish research parks or any building or facility, including research and service facilities and areas intended for common use of research park occupants;

(8) to finance all or part of the costs of the research park, including the purchase, construction, reconstruction, improvement, remodeling, addition to, extension, maintenance, equipment and furnishing;

(9) to conduct, sponsor, finance and contract in connection with technological innovations of all kinds; and

(10) to do anything else that the regents deem appropriate to further the purposes of the University Research Park and Economic Development Act either directly or indirectly.

B. The specification of powers in this section is not exclusive and shall not be construed to impair or negate any other power or authority enjoyed by the regents under the constitution or laws of this state."

## **Chapter 247 Section 6 Laws 2007**

Section 6. Section 21-28-6 NMSA 1978 (being Laws 1989, Chapter 264, Section 6, as amended) is amended to read:

"21-28-6. POWERS OF RESEARCH PARK CORPORATION.--A research park corporation shall have all the powers necessary and convenient to carry out and effectuate the provisions of the University Research Park and Economic Development Act, including the power to:

A. approve or disapprove proposals;

B. sue and be sued in its corporate name;

C. purchase, take, receive or otherwise acquire; own, hold, manage, develop, dispose of or use; and otherwise deal in and with property, including an interest in or ownership of intangible personal property, intellectual property or technological innovations;

D. sell, convey, pledge, exchange, transfer, lease or otherwise dispose of its assets and properties for consideration upon terms and conditions that the corporation shall determine; provided that any sale, conveyance, pledge, exchange, transfer, lease or disposal of a real property interest by a research park corporation shall be made in accordance with the provisions of Section 13-6-2 NMSA 1978;

E. make contracts, incur liabilities or borrow money at rates of interest that the research park corporation may determine;

F. make and execute all contracts, agreements or instruments necessary or convenient in the exercise of the powers and functions of the corporation granted by the University Research Park and Economic Development Act;

G. receive and administer grants, contracts and private gifts;

H. invest and reinvest its funds;

I. conduct its activities, carry on its operations, have offices and exercise the powers granted by the University Research Park and Economic Development Act;

J. make and alter bylaws that may contain provisions indemnifying any person who is or was a director, officer, employee or agent of the corporation and that are consistent with the University Research Park and Economic Development Act, for the administration and regulation of the affairs of research park corporations;

K. employ officers and employees that it deems necessary, set their compensation and prescribe their duties;

L. enter into agreements with insurance carriers to insure against any loss in connection with its operations;

M. authorize retirement programs and other benefits for salaried officers and employees of the research park corporation;

N. employ fiscal consultants, attorneys and other consultants that may be required and to fix and pay their compensation; and

O. enter into license agreements and contracts, including those involving intellectual property and technological innovations such as patents, copyrights, franchises and trademarks."

## **Chapter 247 Section 7 Laws 2007**

Section 7. Section 21-28-8 NMSA 1988 (being Laws 1989, Chapter 264, Section 8) is amended to read:

"21-28-8. ISSUANCE OF REVENUE BONDS.--A research park corporation may issue negotiable revenue bonds or notes or both. The proceeds of the sale of bonds issued pursuant to the University Research Park and Economic Development Act shall be used to carry out the provisions of that act and to fund reserves for the research park corporation to pay interest on the bonds and to pay the necessary expenses of issuing the bonds, including bond counsel and fiscal adviser fees and other legal, consulting and printing fees and costs. All bonds may be issued in one or more series. The bonds of each issue shall be dated and bear interest as prescribed by the research park corporation. The bonds shall mature serially or otherwise not later than forty years from their date and may be redeemable before maturity at the option of the research park corporation at prices and under terms and conditions fixed by the research park corporation in its resolution or trust agreement providing for issuance of the bonds. The resolution or trust agreement shall also determine the form of the bonds, including the form of any interest coupons to be attached thereto, and shall fix the denominations of the bonds and the place of the payment of the principal and interest thereon. The bonds shall be executed on behalf of the research park corporation as special obligations of the research park corporation payable only from the funds specified in the University Research Park and Economic Development Act and shall not be a debt of this state, any political subdivision of this state or any university, and neither this state nor any political subdivision nor university shall be liable for the debts of the research park corporation. The resolution or trust agreement may provide for registration of the bonds as to ownership and for successive conversion and reconversion from registered to bearer bonds and vice versa. The bonds may be registered in the principal office of the research park corporation. After the registration and delivery to the purchasers, the bonds are incontestable and constitute special obligations of the research park corporation, and the bonds and coupons are negotiable instruments under the laws of this state. The bonds may be sold at public or private sale by the research park corporation at prices and in accordance with procedures and terms the research park corporation determines to be advantageous and reasonably obtainable. The research park corporation may provide for replacement of any bond that may be mutilated or destroyed."

## **Chapter 247 Section 8 Laws 2007**

Section 8. Section 21-28-9 NMSA 1978 (being Laws 1989, Chapter 264, Section 9) is amended to read:

"21-28-9. STATUS OF BONDS.--Bonds and other obligations issued under the provisions of the University Research Park and Economic Development Act shall be deemed issued on behalf of the university, but shall not be deemed to constitute a debt, liability, obligation of or a pledge of the faith and credit of this state or any political subdivision thereof or any university, but shall be payable solely from the revenue or assets of the research park corporation pledged for that payment. Each obligation issued on behalf of the research park corporation under the University Research Park and Economic Development Act shall contain on its face a statement to the effect that neither this state nor any political subdivision, university or research park corporation shall be obligated to pay the same or the interest thereon except from the revenues or assets pledged therefor and that neither the faith and credit nor the taxing power of this state, any political subdivision thereof or any university is pledged to the payment of the principal of or the interest on such obligation."

### **Chapter 247 Section 9 Laws 2007**

Section 9. Section 21-28-10 NMSA 1978 (being Laws 1989, Chapter 264, Section 10) is amended to read:

"21-28-10. REFUNDING BONDS.--The board of directors of a research park corporation may by resolution provide for the issuance of refunding bonds to refund any outstanding bonds issued under the University Research Park and Economic Development Act, together with redemption premiums, if any, and interest accrued or to accrue thereon. Provisions governing the issuance and sale of bonds under the University Research Park and Economic Development Act govern the issuance and sale of refunding bonds insofar as applicable. Refunding bonds may be exchanged for the outstanding bonds or may be sold and the proceeds used to retire the outstanding bonds. Pending the application of the proceeds of any refunding bonds, with any other available funds, to the payment of the principal, interest and any redemption premiums on the bonds being refunded, and if so provided or permitted in the resolution of the research park corporation authorizing the issuance of such refunding bonds, to the payment of any interest on refunding bonds and any expenses incurred in connection with refunding, the proceeds may be placed in escrow and invested in securities that are unconditionally guaranteed by the United States and that shall mature or be subject to redemption by the holders thereof, at the option of the holders, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended."

### **Chapter 247 Section 10 Laws 2007**

Section 10. Section 21-28-11 NMSA 1978 (being Laws 1989, Chapter 264, Section 11) is amended to read:

"21-28-11. TRUST AGREEMENTS AUTHORIZED.--In the discretion of the research park corporation, any bonds issued under the provisions of the University Research Park and Economic Development Act may be secured by a trust agreement

by and between the research park corporation and a corporate trustee, which may be a bank or trust company having trust powers within or without the state. The trust agreement or the resolution providing for the issuance of bonds may pledge or assign all or any part of the revenues or assets of the research park corporation. The trust agreement or resolution may contain provisions for protecting and enforcing the rights and remedies of the holders of any bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the research park corporation in relation to the purposes to which bond proceeds may be applied, the disposition or pledging of the revenues or assets of the research park corporation and the custody, safeguarding and application of all money. It is lawful for any bank or trust company incorporated under the laws of the state that may act as depository of the proceeds of bond revenues or other money hereunder to furnish indemnifying bonds or to pledge securities that may be required by the research park corporation. Any trust agreement or resolution may set forth the rights and remedies of the holders of any bonds and of the trustee and may restrict the individual right of action by any holders. In addition, any trust agreement or resolution may contain other provisions as the research park corporation may deem reasonable and proper for the security of the holders of any bonds. All expenses incurred in carrying out the provisions of a trust agreement or resolution may be paid from the revenues or assets pledged or assigned to the payment of the principal of and the interest on bonds or from any other funds available to the research park corporation."

## **Chapter 247 Section 11 Laws 2007**

Section 11. Section 21-28-13 NMSA 1978 (being Laws 1989, Chapter 264, Section 13, as amended) is amended to read:

"21-28-13. ALL MONEY RECEIVED FROM SALE OF BONDS DEEMED TRUST FUNDS.--All money received by a research park corporation from bonds issued under the provisions of the University Research Park and Economic Development Act shall be deemed funds to be held in trust, applied as provided in that act or transferred to other research park corporations, nonprofit corporations or the university as the research park corporation deems appropriate. The resolution authorizing any obligations or the trust agreement securing the obligations may provide that any of the money covered by this section may be temporarily invested pending its disbursement. The resolution shall provide that any officer with whom, or any bank or trust company with which, the money is deposited shall act as trustee of the money and shall hold and apply the money for the purposes of the University Research Park and Economic Development Act, subject to provisions that rules under that act and the resolution or trust agreement may specify. Any such money described in this section received by a research park corporation may be invested as provided in the University Research Park and Economic Development Act."

## **Chapter 247 Section 12 Laws 2007**

Section 12. Section 21-28-15 NMSA 1978 (being Laws 1989, Chapter 264, Section 15) is amended to read:

"21-28-15. RIGHTS OF HOLDERS OF BONDS.--Any holder of bonds issued under the provisions of the University Research Park and Economic Development Act or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of those bonds, except as the rights given pursuant to that act may be restricted by a trust agreement or resolution, may, either at law or in equity, by suit, mandamus or other proceeding, protect and enforce any and all rights under the laws of this state or granted by that act or under the trust agreement or resolution or under any other contract executed by the research park corporation pursuant to that act, and may enforce and compel the performance of all duties required by that act or by the trust agreement or resolution to be performed by the research park corporation or by any officer thereof."

### **Chapter 247 Section 13 Laws 2007**

Section 13. Section 21-28-16 NMSA 1978 (being Laws 1989, Chapter 264, Section 16, as amended) is amended to read:

"21-28-16. LEGAL INVESTMENTS--TAX EXEMPTION.--All bonds issued by a research park corporation under the University Research Park and Economic Development Act are legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees and guardians and for the sinking funds of political subdivisions, departments, institutions and agencies of this state. When accompanied by all unmatured coupons appurtenant to them, the bonds are sufficient security for all deposits of state funds and of all funds of any board in control of public money at the par value of the bonds. The bonds and the income from the bonds are free from taxation within this state, except estate taxes. The research park corporation in its discretion and by those means as it deems appropriate may waive the exemption from federal income taxation of interest on the bonds. The bonds subject to federal income taxation issued by the research park corporation shall be payable as to principal and interest with such frequency as may be required by the research park corporation."

### **Chapter 247 Section 14 Laws 2007**

Section 14. Section 21-28-17 NMSA 1978 (being Laws 1989, Chapter 264, Section 17) is amended to read:

"21-28-17. ANNUAL REPORT AND AUDIT.--

A. A research park corporation shall, within ninety days following the close of each fiscal year, submit an annual report of its activities for the preceding year as required by the Nonprofit Corporation Act or the Business Corporation Act under which the research park is incorporated. The board of directors of the research park

corporation shall annually contract with an independent certified public accountant, licensed by the state, to perform an examination and audit of the accounts and books of the research park corporation, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing, and the certified public accountant shall make a determination as to whether the research park corporation has complied with the provisions of the University Research Park and Economic Development Act. The person performing the audit shall furnish copies of the audit report to the regents of the university and the public regulation commission where they shall be placed on file and made available for inspection by the general public.

B. Subject to the provisions of any contract with bondholders or noteholders, a research park corporation shall prescribe a system of accounts.

C. The costs of audits and examinations performed pursuant to this section shall be paid by the research park corporation."

## **Chapter 247 Section 15 Laws 2007**

Section 15. Section 21-28-20 NMSA 1978 (being Laws 1989, Chapter 264, Section 20) is amended to read:

"21-28-20. CONFLICTS OF INTEREST.--

A. If any director, officer or employee of a research park corporation is interested either directly or indirectly or is an officer or employee of or has any ownership interest in any firm or legal entity interested directly or indirectly in any contract with the research park corporation, except for any agency, instrumentality, department or political subdivision of the state, such interest shall be disclosed to and shall be set forth in the minutes of the research park corporation that is a party to the contract. The director, officer or employee having that interest shall not participate on behalf of the research park corporation in the authorization of the contract.

B. No director, officer or employee of a research park corporation or state officer shall accept any gratuities in connection with the issuance of bonds under the University Research Park and Economic Development Act, nor shall that individual be reimbursed for expenses incident to the issuing of bonds except such expenses as are reimbursed as provided under the provisions of rules of the regents.

C. Nothing in this section shall prohibit an officer, director or employee of a financial institution from participating as a member of the board of directors of a research park corporation in setting general policies of the research park corporation, nor shall any provision of this section be construed as prohibiting a financial institution of New Mexico from making loans guaranteed pursuant to the provisions of the University Research Park and Economic Development Act because an officer, director

or employee of the financial institution serves as a member of the board of directors of the research park corporation.

D. Any person who violates the provisions of this section is guilty of a misdemeanor and shall be sentenced for a definite term of less than one year, a fine of one thousand dollars (\$1,000), or both."

### **Chapter 247 Section 16 Laws 2007**

Section 16. Section 21-28-22 NMSA 1978 (being Laws 1989, Chapter 264, Section 22) is amended to read:

"21-28-22. AGREEMENT WITH THE STATE.--The state does hereby pledge to and agree with the holders of any bonds or notes issued under the University Research Park and Economic Development Act that the state will not limit or alter the rights hereby vested in the research park corporation by that act to fulfill the terms of any agreement made with the holders thereof or in any way impair the rights and remedies of those holders until the bonds or notes, together with the interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceedings by or on behalf of those holders, are fully met and discharged. A research park corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds or notes."

### **Chapter 247 Section 17 Laws 2007**

Section 17. Section 21-28-23 NMSA 1978 (being Laws 1989, Chapter 264, Section 23) is amended to read:

"21-28-23. WORK TO CONFORM TO FEDERAL LAW WHEN AIDED BY FEDERAL APPROPRIATIONS.--In the event of congress making appropriations for the conduct of work similar to that specified in the University Research Park and Economic Development Act, the work of the research park shall conform to the requirements imposed as the conditions for those federal appropriations in order that the work of the research park may be aided and extended by means of those federal appropriations for scientific, engineering and industrial research."

### **Chapter 247 Section 18 Laws 2007**

Section 18. Section 21-28-24 NMSA 1978 (being Laws 1989, Chapter 264, Section 24) is amended to read:

"21-28-24. CONTRACTS INVOLVING OFFICERS OR EMPLOYEES OF EDUCATIONAL INSTITUTIONS AND STATE AGENCIES OR POLITICAL SUBDIVISIONS.--A research park corporation shall not enter into any contract involving services or property of a value in excess of twenty thousand dollars (\$20,000) with an employee of the university or with a business in which the employee has a controlling

interest, except as provided in Section 21-28-25 NMSA 1978 if the employee has a controlling interest, unless the president of the university or the president's designee makes a determination, in writing, that the employee is able to provide services that are not readily available from another person or is able to provide services that are less expensive or of higher quality than is otherwise available."

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Senate Bill 773

Approved April 2, 2007

## **LAWS 2007, CHAPTER 248**

AN ACT

RELATING TO LICENSURE; CREATING THE SIGNED LANGUAGE INTERPRETING PRACTICES ACT; EXPANDING THE EXPENDITURES ALLOWED IN THE TELECOMMUNICATIONS ACCESS FUND; MAKING AN APPROPRIATION.

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

### **Chapter 248 Section 1 Laws 2007**

Section 1. SHORT TITLE.--Sections 1 through 17 of this act may be cited as the "Signed Language Interpreting Practices Act".

### **Chapter 248 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the Signed Language Interpreting Practices Act:

- A. "board" means the signed language interpreting practices board;
- B. "consumer" means a person using the services of a signed language interpreter;
- C. "deaf, hard-of-hearing or deaf-blind person" means a person who has either no hearing or who has significant hearing loss;
- D. "department" means the regulation and licensing department;
- E. "interpreter" means a person who practices interpreting;
- F. "interpreter education program" or "interpreter preparation program" means:

(1) a post-secondary degree program of at least two year's duration accredited by the state or similar accreditation by another state, district or territory; or

(2) a substantially equivalent education program approved by the board;  
and

G. "interpreting" means the process of providing accessible communication between deaf, hard-of-hearing or deaf-blind persons and hearing persons, including;

(1) communication between signed language and spoken language; or

(2) other modalities such as visual, gestural and tactile methods, not to include written communication.

### **Chapter 248 Section 3 Laws 2007**

Section 3. SCOPE OF PRACTICE.--For the purposes of the Signed Language Practices Act, a person is interpreting if the person advertises, offers to practice, is employed in a position described as interpreting or holds out to the public or represents in any manner that the person is an interpreter in this state.

### **Chapter 248 Section 4 Laws 2007**

Section 4. LICENSE REQUIRED.--Unless licensed pursuant to the Signed Language Interpreting Practices Act, a person shall not:

A. practice as an interpreter or perform interpreting services:

(1) for compensation or where compensation could be reasonably expected; or

(2) where effective communication is mandated by state or federal law;

B. use the title of interpreter or make any representation as being an interpreter, or use any other title, abbreviation, letters, figures, signs or devices that indicate the person is licensed to practice interpreting; or

C. advertise or make any representation to the public or in any manner that the person is licensed to provide interpreting services.

### **Chapter 248 Section 5 Laws 2007**

Section 5. EXEMPTIONS.--The Signed Language Interpreting Practices Act does not apply to:

A. nonresident interpreters working in New Mexico less than thirty calendar days per year;

B. interpreting in religious or spiritual settings;

C. interpreting in informal settings for friends, families or guests;

D. interpreting in emergency situations where the deaf, hard-of-hearing or deaf-blind person or that person's legal representative decides that the delay necessary to obtain a licensed interpreter is likely to cause injury or loss to the consumer;

E. the activities or services of a supervised interpreter intern or student in training who is enrolled in an interpreter education program, interpreter preparation program, or a program of study in signed language interpreting at an accredited institution of higher learning approved by the board; or

F. multilingual interpreting in order to accommodate the personal choice of the consumer.

## **Chapter 248 Section 6 Laws 2007**

Section 6. CONFIDENTIAL COMMUNICATION.--

A. A communication is confidential when it is not intended to be disclosed to third persons other than those present to further the interest of the person requiring the interpreting.

B. A licensed signed language interpreter shall not disclose confidential information obtained in the course of professional services.

## **Chapter 248 Section 7 Laws 2007**

Section 7. BOARD CREATED.--

A. The "signed language interpreting practices board" is created.

B. The board is administratively attached to the department with administrative staff provided by the department.

C. The governor shall appoint the members to serve on the board.

D. The board shall consist of seven members, at least two of whom are from each congressional district, as follows:

(1) two licensed community interpreters and two licensed educational interpreters, at least one of whom is a deaf or hard-of-hearing person;

(2) two deaf, hard-of-hearing, deaf-blind persons who are regular consumers of signed language interpreting services; and

(3) one person representing the general public who has never been a licensed signed language interpreter and has no financial interest in the profession of signed language interpreting.

E. Members shall serve for staggered terms of three years each, except that the initial board shall be appointed so that the terms of three members expire June 30, 2009 and the terms of four members expire June 30, 2010.

F. Vacancies shall be filled by appointment by the governor for the unexpired term within ninety days of the vacancy. Board members shall serve until their successors have been appointed and qualified.

G. Members shall be paid per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

H. No member shall serve more than two consecutive terms. A member failing to attend three meetings, after proper notice, shall be recommended for removal as a board member unless excused for reasons set forth in board rules.

I. The board shall elect a chair and other officers as it deems necessary to administer its duties.

J. The board shall hold at least two meetings annually and additional meetings as the board deems necessary. The additional meetings may be held upon call of the chair or upon written request of four members. Four members of the board, including the public member, constitutes a quorum to conduct business.

## **Chapter 248 Section 8 Laws 2007**

### **Section 8. BOARD POWERS AND DUTIES.--**

A. The board shall:

(1) administer and enforce provisions of the Signed Language Interpreting Practices Act;

(2) promulgate rules setting forth the qualifications of applicants for licensure and the provisions for the administration of examinations and the issuance, renewal, suspension or revocation of licenses;

(3) evaluate the qualifications of applicants for licensure and issue licenses;

(4) promulgate rules pursuant to the State Rules Act to effectively carry out and enforce the provisions of the Signed Language Interpreting Practices Act;

(5) submit an annual budget for each fiscal year to the department;

(6) maintain a record of all proceedings; and

(7) provide an annual report to the governor.

B. The board may refuse, suspend or revoke a license of an interpreter, conduct investigations, issue subpoenas and hold hearings as provided in the Uniform Licensing Act.

## **Chapter 248 Section 9 Laws 2007**

### Section 9. REQUIREMENTS FOR LICENSURE.--

A. The board shall issue a license as a community signed language interpreter to a person who:

and (1) files a completed application that is accompanied by the required fees;

(2) submits satisfactory evidence that the person:

(a) has reached the age of majority;

(b) is of good moral character;

board; and (c) has completed all educational requirements established by the

(d) holds certification under a nationally recognized signed language interpreters organization or by an equivalent organization as defined by rule of the board.

B. The board shall issue a license as an educational signed language interpreter to a person who:

and (1) files a completed application that is accompanied by the required fees;

(2) submits satisfactory evidence that the person:

(a) has reached the age of majority;

(b) is of good moral character;

(c) has completed all educational requirements established by the board; and

(d) provides evidence of passing a skill assessment exam as established by rule.

C. The board shall issue a one-time, five-year provisional license to a person not meeting the community signed language interpreter or educational signed language interpreter requirements for licensure as a signed language interpreter pursuant to the Signed Language Interpreting Practices Act if the person:

(1) has completed an interpreter education program or interpreter preparation program; or

(2) is employed as a community signed language interpreter or an educational signed language interpreter at the time that act becomes effective.

## **Chapter 248 Section 10 Laws 2007**

### Section 10. LICENSE RENEWAL.--

A. Notwithstanding Subsection B of Section 8 of the Signed Language Interpreting Practices Act, a licensee may renew a license every two years by submitting a completed renewal application provided by the board.

B. The board may require continuing education for license renewal as established by rule.

C. If a license is not renewed by the expiration date, the license shall be considered expired, and the licensee shall refrain from practicing. The licensee may renew within a sixty-day grace period, which begins the first day the license expires, by submitting payment of the renewal fee and a late fee and complying with all renewal requirements. Upon renewal of the license, the licensee may resume practice.

D. The board may issue rules providing for the inactive status of licenses.

## **Chapter 248 Section 11 Laws 2007**

Section 11. FEES.--The board may, by rule, establish a schedule of fees as follows:

A. an initial nonrefundable biennial licensure fee not to exceed two hundred fifty dollars (\$250);

B. a nonrefundable biennial license renewal fee not to exceed two hundred dollars (\$200);

C. an initial nonrefundable annual provisional licensure fee not to exceed two hundred dollars (\$200); and

D. an annual nonrefundable provisional licensure renewal fee not to exceed one hundred dollars (\$100) limited to five years that the licensee may renew.

## **Chapter 248 Section 12 Laws 2007**

Section 12. UNIFORM LICENSING ACT.--The Signed Language Interpreting Practices Act is enforceable according to the procedures set forth in the Uniform Licensing Act.

## **Chapter 248 Section 13 Laws 2007**

Section 13. FUND CREATED.--

A. The "signed language interpreting practices fund" is created in the state treasury.

B. All money received by the board under the Signed Language Interpreting Practices Act shall be deposited with the state treasurer for credit to the signed language interpreting practices fund. The fund consists of fees as provided in the Signed Language Interpreting Practices Act and money received from the telecommunications access fund. The state treasurer shall invest the fund as other state funds are invested. Earnings from investment of the fund shall be credited to the fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

C. Money in the fund is subject to appropriation by the legislature to be used only for purposes of carrying out the provisions of the Signed Language Interpreting Practices Act.

D. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the superintendent of regulation and licensing.

## **Chapter 248 Section 14 Laws 2007**

Section 14. LICENSE DENIAL, SUSPENSION OR REVOCATION.--

A. In accordance with procedures contained in the Uniform Licensing Act, the board may deny, revoke or suspend a license held or applied for under the Signed Language Interpreting Practices Act, upon grounds that the licensee or applicant:

- license;
- (1) is guilty of fraud or deceit in procuring or attempting to procure a
- (2) is guilty of gross incompetence;
- board;
- (3) is guilty of unprofessional or unethical conduct as defined by rule of the
- (4) uses untruthful or misleading advertising;
- (5) is habitually or excessively using controlled substances or alcohol to such a degree the licensee or applicant is rendered unfit to practice as a signed language interpreter pursuant to the Signed Language Interpreting Practices Act;
- (6) has violated the Signed Language Interpreting Practices Act;
- (7) is guilty of aiding and abetting a person not licensed to practice signed language interpreting pursuant to the Signed Language Interpreting Practices Act; or
- (8) as evidenced by a certified copy of the record of jurisdiction, has had a license, certificate or registration to practice signed language interpreting revoked, suspended or denied in any state or territory of the United States for actions pursuant to this section.

B. Disciplinary proceedings may be initiated by a complaint of a person, including members of the board, and shall conform with the provisions of the Uniform Licensing Act.

C. A person filing a complaint shall be immune from liability arising out of civil action if the complaint is filed in good faith and without actual malice.

### **Chapter 248 Section 15 Laws 2007**

Section 15. PENALTIES.--A person who violates a provision of the Signed Language Interpreting Practices Act is guilty of a misdemeanor and upon conviction shall be sentenced pursuant to Section 31-19-1 NMSA 1978.

### **Chapter 248 Section 16 Laws 2007**

Section 16. CRIMINAL OFFENDER EMPLOYMENT ACT.--The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by the Signed Language Interpreting Practices Act.

### **Chapter 248 Section 17 Laws 2007**

Section 17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The signed language interpreting practices board is terminated on July 1, 2013 pursuant to the Sunset Act. The board shall continue to operate according to the Signed Language Interpreting Practices Act until July 1, 2014. Effective July 1, 2014, the Signed Language Interpreting Practices Act is repealed.

## **Chapter 248 Section 18 Laws 2007**

Section 18. Section 63-9F-12 NMSA 1978 (being Laws 1993, Chapter 54, Section 12, as amended) is amended to read:

"63-9F-12. TELECOMMUNICATIONS ACCESS FUND--ESTABLISHED.--There is created in the state treasury the "telecommunications access fund". Money appropriated to the fund or accruing to it through gifts, grants, fees, surcharges, penalties or bequests shall be delivered to the state treasurer for deposit in the fund. The fund shall be invested as other state funds are invested. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the executive director of the commission. The commission shall administer the fund. Money in the fund is appropriated to the commission for the purpose of carrying out the provisions of the Telecommunications Access Act. The commission may request the state budget division of the department of finance and administration to approve the expenditure of funds deposited in the telecommunications access fund for the purpose of defraying salary and other necessary expenses incurred by the commission in the administration of the provisions of the Telecommunications Access Act. The state budget division may approve the expenditure of not more than ten percent of the amount deposited in the telecommunications access fund during any fiscal year for expenses incurred by the commission in administering that act. In addition, money in the fund is subject to appropriation by the legislature to the commission for the performance of its duties pursuant to Chapter 28, Article 11B NMSA 1978 and to the signed language interpreting practices fund for the purpose of defraying salary and other necessary expenses incurred by the signed language interpreting practices board. Any unexpended or unencumbered balance remaining in the fund at the end of any fiscal year shall not revert."

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Senate Bill 817, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 249**

AN ACT

RELATING TO MISCELLANEOUS NATURAL RESOURCES MATTERS; AMENDING THE NATURAL RESOURCES TRUSTEE ACT TO PROVIDE FOR MANAGEMENT AND TO USE OF MONEY IN THE NATURAL RESOURCES TRUSTEE FUND AND TO PROVIDE FOR A GENERAL FUND APPROPRIATION FOR OPERATING EXPENSES OF THE OFFICE OF THE NATURAL RESOURCES TRUSTEE; MAKING AN APPROPRIATION.

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

### **Chapter 249 Section 1 Laws 2007**

Section 1. Section 75-7-1 NMSA 1978 (being Laws 1993, Chapter 292, Section 1) is amended to read:

"75-7-1. SHORT TITLE.--Chapter 75, Article 7 NMSA 1978 may be cited as the "Natural Resources Trustee Act"."

### **Chapter 249 Section 2 Laws 2007**

Section 2. Section 75-7-2 NMSA 1978 (being Laws 1993, Chapter 292, Section 2) is amended to read:

"75-7-2. NATURAL RESOURCES TRUSTEE--OFFICE OF NATURAL RESOURCES TRUSTEE.--

A. The "natural resources trustee" is created. The trustee is appointed by and serves at the pleasure of the governor pursuant to the provisions of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the federal Superfund Amendments and Reauthorization Act of 1986, the Federal Water Pollution Control Act and any other applicable federal law. The natural resources trustee shall act on behalf of the public as trustee of natural resources within the state or belonging to, managed by, controlled by or appertaining to the state, including protecting and representing the state's interest under applicable federal laws regarding injury to, destruction of or loss of natural resources in the state.

B. The "office of natural resources trustee" is created. The office shall be administratively attached to the department of environment. The administrative head of the office of natural resources trustee is the natural resources trustee. For purposes of this subsection, the term "administratively attached" means the same as specified in Section 9-1-7 NMSA 1978."

### **Chapter 249 Section 3 Laws 2007**

Section 3. Section 75-7-5 NMSA 1978 (being Laws 1993, Chapter 292, Section 5, as amended) is amended to read:

"75-7-5. NATURAL RESOURCES TRUSTEE FUND.--

A. The "natural resources trustee fund" is created in the state treasury. Money appropriated to the fund or accruing to it through gifts, grants, fees, penalties, bequests or any other source shall be delivered to the state treasurer and deposited in the fund. Money recovered for the state by or on behalf of the natural resources trustee shall be deposited in the natural resources trustee fund. The fund shall be administered by the natural resources trustee as a separate account and may consist of subaccounts that the natural resources trustee deems necessary to carry out the purposes of the fund. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the natural resources trustee or the trustee's designated representative. Money in the fund shall not revert to the general fund at the end of a fiscal year.

B. Pursuant to the following criteria, money in the natural resources trustee fund shall be used to carry out the provisions of the Natural Resources Trustee Act by restoring, replacing or acquiring natural resources in an area where natural resources have been injured, destroyed or lost, provided that money deposited in the fund because of injury to, destruction of or loss of natural resources in an area shall be disbursed to restore, replace or acquire natural resources in that same area:

(1) if an expenditure from the fund is necessary to comply with a court order or court-approved settlement or to match federal funds, then, pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, the natural resources trustee may request a budget increase and, if approved, the amount of the expenditure is appropriated;

(2) if money is received for reimbursement of assessment costs, then the natural resources trustee may expend money for injury assessment, and money is appropriated in that amount for that purpose; and

(3) any other expenditures from the fund shall be made only pursuant to appropriation by the legislature.

C. In addition to expenditures made pursuant to Subsection B of this section, money shall be appropriated annually by the legislature from the general fund for the purpose of providing for necessary personnel and other costs of the natural resources trustee, the attorney general and the office of natural resources trustee in carrying out the provisions of the Natural Resources Trustee Act, including the cost of investigation, assessment, collection or enforcement.

D. For purposes of this section, "assessment costs" means the costs of restoration and the costs of collecting, compiling and analyzing information, statistics or data to determine damages for injuries to natural resources pursuant to the Natural Resources Trustee Act.

E. Money in the natural resources trustee fund shall be invested as other state funds are invested, and interest and earnings from the fund shall not revert to the general fund but shall be credited to the natural resources trustee fund."

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Senate Bill 15, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 250**

AN ACT

RELATING TO PROFESSIONAL AND OCCUPATIONAL LICENSES; CHANGING THE LICENSED PHYSICIAN AND OSTEOPATHIC PHYSICIAN SUPERVISION REQUIREMENTS; AMENDING THE PHYSICIAN ASSISTANT ACT AND THE OSTEOPATHIC PHYSICIANS' ASSISTANTS ACT.

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

### **Chapter 250 Section 1 Laws 2007**

Section 1. Section 61-6-10 NMSA 1978 (being Laws 1973, Chapter 361, Section 6, as amended) is amended to read:

"61-6-10. SUPERVISING LICENSED PHYSICIAN--RESPONSIBILITY.--

A. As a condition of licensure, all physician assistants practicing in New Mexico shall inform the board of the name of the licensed physician under whose supervision they will practice. All supervising physicians shall be licensed under the Medical Practice Act and shall be approved by the board.

B. Every licensed physician supervising a licensed physician assistant shall be individually responsible and liable for the performance of the acts and omissions delegated to the physician assistant. Nothing in this section shall be construed to relieve the physician assistant of responsibility and liability for the acts and omissions of the physician assistant.

C. A physician assistant shall be supervised by a physician as approved by the board."

### **Chapter 250 Section 2 Laws 2007**

Section 2. Section 61-10A-7 NMSA 1978 (being Laws 1979, Chapter 26, Section 7) is amended to read:

"61-10A-7. RESPONSIBILITY.--Every osteopathic physician using, supervising or employing a registered osteopathic physician's assistant shall be individually responsible and liable for the performance of the acts and omissions delegated to the osteopathic physician's assistant. Nothing in the Osteopathic Physicians' Assistants Act shall be construed to relieve the osteopathic physician's assistant of responsibility and liability for any of the osteopathic physician's assistant's own acts and omissions. An osteopathic physician's assistant shall be supervised by an osteopathic physician as approved by the board."

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Senate Public Affairs Committee

Substitute for Senate Bill 20, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 251**

AN ACT

RELATING TO COURTS; ALLOWING COLLECTION OF FEES AND COSTS BY A  
MAGISTRATE ACTING IN ANOTHER MAGISTRATE DISTRICT BY DESIGNATION.

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

### **Chapter 251 Section 1 Laws 2007**

Section 1. Section 35-3-6 NMSA 1978 (being Laws 1968, Chapter 62, Section 51, as amended) is amended to read:

"35-3-6. JURISDICTION--TERRITORIAL LIMITS.--

A. The territorial jurisdiction of a magistrate is coextensive with the magistrate district in which the magistrate serves. A magistrate also has jurisdiction in any criminal action involving violation of a law relating to motor vehicles arising in a magistrate district adjoining at any point that in which the magistrate serves and within magistrate trial jurisdiction; provided that the defendant is entitled to a change of venue to the district where the cause of action arose if the defendant so moves at, or within fifteen days after, arraignment.

B. A magistrate has jurisdiction to sit in any action arising in any other magistrate district when designated for a specific period of time by a district judge because of the

unavailability of a magistrate in that magistrate district. A magistrate acting in another magistrate district by designation pursuant to this subsection shall include the cases heard by designation in the magistrate's own reports to the administrative office of the courts, indicating on the reports that the magistrate's jurisdiction is by designation.

C. In a criminal action in which a magistrate has territorial jurisdiction over the offense pursuant to this section, the magistrate court has personal jurisdiction over the defendant for the purpose of service of process upon the defendant wherever the defendant resides or may be found within the state.

D. In a civil action arising within the magistrate's territorial jurisdiction, the magistrate court has personal jurisdiction over the defendant for the purpose of service of process upon the defendant wherever the defendant resides or may be found within the state.

E. The territorial limitations of magistrate court jurisdiction shall not apply to actions to enforce judgments entered in the magistrate district and writs issued in aid of those actions."

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Senate Bill 64

Approved April 2, 2007

## **LAWS 2007, CHAPTER 252**

AN ACT

RELATING TO THE UNIFORM COMMERCIAL CODE; PROVIDING FOR JURISDICTION AND FORUM TO GOVERN LEASE OR RENTAL CONTRACTS; LIMITING INDEMNIFICATION BY A PARTY OF A LEASE TO ANOTHER PARTY OF THAT LEASE.

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

### **Chapter 252 Section 1 Laws 2007**

Section 1. Section 55-2A-106 NMSA 1978 (being Laws 1992, Chapter 114, Section 13) is amended to read:

"55-2A-106. LIMITATION ON POWER OF PARTIES TO CONSUMER LEASE TO CHOOSE APPLICABLE LAW AND FORUM.--

(1) If the law chosen by the parties to a consumer lease is that of a jurisdiction other than a jurisdiction in which the lessee resides at the time the lease agreement

becomes enforceable or within thirty days thereafter or in which the goods are to be used, the choice is not enforceable.

(2) If the judicial forum chosen by the parties to a consumer lease is a forum that would not otherwise have jurisdiction over the lessee, the choice is not enforceable.

(3) If the forum for an arbitration or mediation hearing chosen by the parties to a consumer lease is in a state or in a similar political subdivision in a foreign country other than the state or the similar subdivision in the foreign country in which the lessee resides at the time the lease agreement becomes enforceable or within thirty days thereafter or in which the goods are to be used, the choice is not enforceable."

## **Chapter 252 Section 2 Laws 2007**

Section 2. A new section of Chapter 56, Article 7 NMSA 1978 is enacted to read:

"COMMERCIAL INSTRUMENTS AND TRANSACTION.--

A. A provision of a lease or rental contract for equipment that requires a party to the agreement to indemnify, hold harmless, insure or defend the other party to the agreement, including the other party's officers, employees or agents against liability, claims, damages, losses or expenses, including attorney fees, arising out of bodily injury to a person or damage to property caused by or resulting from, in whole or in part, the negligence, act or omission of the indemnitee, its officers, employees or agents, is void, unenforceable and against the public policy of this state.

B. A lease or rental contract for equipment may contain a provision that requires one party to the contract to indemnify, hold harmless or insure the other party to the contract, including its officers, employees or agents, against liability, claims, damages, losses or expenses, including attorney fees, only to the extent that the liability, damages, losses or expenses are caused by, or arise out of, the acts or omissions of the indemnitor or its officers, employees or agents.

C. A lease or rental contract for equipment that does not contain a provision covered by this section shall be presumed to conform to Subsections A and B of this section.

D. As used in this section, "lease or rental contract for equipment" means any public, private, foreign or domestic contract or agreement relating to the temporary use of equipment without transfer of ownership of the equipment from one party to the other.

E. As used in this section, "indemnify" or "hold harmless" includes any requirement to name the indemnified party as an additional insured in the indemnitor's insurance coverage for the purpose of providing indemnification for any liability not

otherwise allowed in this section. The provisions of this subsection shall not restrict the right of any remedy available to a claimant or plaintiff.

F. Nothing in this section shall apply to a lease or rental contract for a motor vehicle, as "motor vehicle" is defined in Section 66-1-4.11 NMSA 1978 and that is designed and used primarily to transport persons or property on a public highway.

G. Nothing in this section shall apply to a security agreement as defined in Section 55-9-102 NMSA 1978 or to a finance lease as defined in Section 55-2A-103 NMSA 1978 or to a lease by a repossessing lessor for equipment repossessed upon default under such a finance lease.

H. Nothing in this section shall apply to a lease or rental contract for equipment for use in the production of motion pictures or television."

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Senate Judiciary Committee Substitute

for Senate Bill 69, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 253**

AN ACT

MAKING AN APPROPRIATION FOR A PILOT PROJECT TO ASSESS THE EFFICACY OF TIRE SPIKES TO PREVENT WRONG-WAY TRAFFIC ON HIGHWAY OFF-RAMPS; DECLARING AN EMERGENCY.

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

### **Chapter 253 Section 1 Laws 2007**

Section 1. APPROPRIATION.--One thousand dollars (\$1,000) is appropriated from the state road fund to the department of transportation for expenditure in fiscal years 2007 and 2008 to establish a pilot project to assess the ways, including the use of tire spikes, to prevent wrong-way traffic on highway off-ramps. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the state road fund.

### **Chapter 253 Section 2 Laws 2007**

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 121, as amended

with emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 254**

AN ACT

RELATING TO FUNERALS AND MEMORIAL SERVICES; LIMITING DEMONSTRATIONS; PROVIDING PENALTIES; DECLARING AN EMERGENCY.

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

### **Chapter 254 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "Demonstrations at Funerals and Memorial Services Act".

### **Chapter 254 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the Demonstrations at Funerals and Memorial Services Act:

A. "funeral" means the ceremonies, rituals, processions and memorial services held at a funeral site in connection with the viewing, burial, cremation or memorial of or wake for a deceased person;

B. "funeral site" means a church, synagogue, mosque, funeral home, mortuary, cemetery, grave site, mausoleum or other place at which a funeral is being conducted or is scheduled to be conducted within the next sixty minutes or has been conducted within the last sixty minutes; and

C. "targeted residential picketing" includes the following acts:

(1) marching, standing or patrolling by one or more persons directed solely at a particular residential building in a manner that adversely affects the safety, security or privacy of an occupant of the building; or

(2) marching, standing or patrolling by one or more persons that prevents an occupant of a residential building from gaining access to or exiting from the property on which the residential building is located.

## **Chapter 254 Section 3 Laws 2007**

Section 3. PROHIBITED ACTS.--A person shall not, with knowledge of the existence of a funeral or funeral site:

A. engage in any loud singing, playing of music, chanting, whistling, yelling or noisemaking with or without noise amplification, including bullhorns, auto horns and microphones within five hundred feet of any ingress or egress of that funeral site, when the volume of such singing, music, chanting, whistling, yelling or noisemaking is audible at and disturbing to the peace and good order of a funeral at that funeral site;

B. direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another person;

C. display within five hundred feet of any ingress or egress of that funeral site any visual images that convey fighting words or actual threats against another person;

D. knowingly obstruct, hinder, impede or block another person's access to or egress from that funeral site or a facility containing that funeral site, except that the owner or occupant of property may take lawful actions to exclude others from that property;

E. knowingly obstruct, hinder, impede or block the progress of a vehicle participating in a procession to or from a funeral site; or

F. knowingly engage in targeted residential picketing at the home or domicile of any surviving member of the deceased person's family or household on the date of the funeral.

## **Chapter 254 Section 4 Laws 2007**

Section 4. PENALTIES.--Any person who violates Section 3 of the Demonstrations at Funerals and Memorial Services Act is:

A. for the first offense, guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978;

B. for the second offense, guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978; and

C. for the third and subsequent offenses, guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

## **Chapter 254 Section 5 Laws 2007**

Section 5. INJUNCTIVE RELIEF.--In addition to the criminal penalties provided in Section 4 of the Demonstrations at Funerals and Memorial Services Act, the court may enjoin conduct prohibited in Section 3 of that act if there is credible evidence that a person is likely to violate Section 3 of the Demonstrations at Funerals and Memorial Services Act. Any surviving member of the deceased person's immediate family who is threatened with loss or injury by reason of a violation described in Section 3 of the Demonstrations at Funerals and Memorial Services Act is entitled to sue for and have injunctive relief in any court of competent jurisdiction against any damage or threatened loss or injury by reason of a violation thereof.

## **Chapter 254 Section 6 Laws 2007**

Section 6. 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 254 Section 7 Laws 2007**

Section 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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Senate Bill 158, as amended

with emergency clause

Approved April 2, 2007

# **LAWS 2007, CHAPTER 255**

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING SCHOOLS TO USE THE STANDARDIZED ALPHABETIC OR NUMERIC GRADING SYSTEM ADOPTED BY THE PUBLIC EDUCATION DEPARTMENT.

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

## **Chapter 255 Section 1 Laws 2007**

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

"STANDARDIZED STATEWIDE GRADING SYSTEM.--The department shall adopt and promulgate rules to establish a standardized alphabetic or numeric grading system based on the 4.0 scale or one hundred percent scale to be used by all public schools for grades five through twelve that is aligned with the New Mexico academic content and performance. A public school shall include the results of standards-based assessments in the standardized grading system, and may augment the standardized grading system with a narrative or other method that measures a student's academic, social, behavioral or other skills."

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Senate Public Affairs Committee

Substitute for Senate Bill 160, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 256**

AN ACT

RELATING TO EMBEZZLEMENT; ALLOWING AGGREGATION OF INCIDENTS OF EMBEZZLEMENT TO DETERMINE PENALTY.

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

### **Chapter 256 Section 1 Laws 2007**

Section 1. Section 30-16-8 NMSA 1978 (being Laws 1963, Chapter 303, Section 16-7, as amended) is amended to read:

"30-16-8. EMBEZZLEMENT.--

A. Embezzlement consists of a person embezzling or converting to the person's own use anything of value, with which the person has been entrusted, with fraudulent intent to deprive the owner thereof.

B. Whoever commits embezzlement when the value of the thing embezzled or converted is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

C. Whoever commits embezzlement when the value of the thing embezzled or converted is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

D. Whoever commits embezzlement when the value of the thing embezzled or converted is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

E. Whoever commits embezzlement when the value of the thing embezzled or converted is over two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony.

F. Whoever commits embezzlement when the value of the thing embezzled or converted exceeds twenty thousand dollars (\$20,000) is guilty of a second degree felony."

## **Chapter 256 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 162, as amended

with certificate of correction

Approved April 2, 2007

## **LAWS 2007, CHAPTER 257**

AN ACT

RELATING TO LABOR; REVISING CHILD LABOR PROVISIONS TO INCLUDE THE FILM INDUSTRY; MODIFYING AGE REQUIREMENTS; PROVIDING FOR APPEAL PROCEDURES; CHANGING PENALTIES; AMENDING, REPEALING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

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

## **Chapter 257 Section 1 Laws 2007**

Section 1. A new section of Chapter 50, Article 6 NMSA 1978 is enacted to read:

"SHORT TITLE.--Chapter 50, Article 6 NMSA 1978 may be cited as the "Child Labor Act"."

## **Chapter 257 Section 2 Laws 2007**

Section 2. A new section of the Child Labor Act is enacted to read:

"EXCEPTIONS.--

A. A child under the age of sixteen may be employed without obtaining a work permit and without the restrictions on the age of the child or time of employment imposed by Sections 50-6-1 through 50-6-3 NMSA 1978 if the child is employed:

(1) by a parent in an occupation other than manufacturing or mining or other than an occupation found to be particularly hazardous or detrimental to the health of children under the age of sixteen;

(2) as an actor or performer in motion picture, theatrical, radio or television productions; or

(3) to sell or deliver newspapers, with the parent's consent, during the school term or during vacation and the child is attending school as required by law and does not engage in such employment except at times when the child's presence is not required at school.

B. The employer of a child employed pursuant to Subsection A of this section is not required to obtain and preserve a work permit in accordance with Section 50-6-9 NMSA 1978 for that child."

### **Chapter 257 Section 3 Laws 2007**

Section 3. A new section of Chapter 50, Article 6 NMSA 1978 is enacted to read:

"CHILDREN WORKING IN THE PERFORMING ARTS.--

A. For the purposes of this section, a "performer" means a person employed to act or otherwise participate in the performing arts, including motion picture, theatrical, radio or television products.

B. A performer under eighteen years of age is considered a child subject to the Child Labor Act unless:

(1) the performer has satisfied the compulsory education laws of the state;

(2) the performer is married;

(3) the performer is a member of the armed forces; or

(4) the performer is legally emancipated.

C. A child may not begin work earlier than 5:00 a.m. and the workday must end no later than 10:00 p.m. on evenings preceding school days and 12:00 a.m. on mornings of nonschool days.

D. A child-performer's working hours, including school time, are limited as follows:

(1) a child under the age of six shall not be employed or permitted to labor for more than six hours in one day;

(2) a child over the age of six and under the age of nine shall not be employed or permitted to labor for more than eight hours in one day;

(3) a child over the age of nine and under the age of sixteen shall not be employed or permitted to labor for more than nine hours in one day; and

(4) a child over the age of sixteen and under the age of eighteen shall not be employed or permitted to labor for more than ten hours in one day.

E. If a child engages in employment on school days, a teacher with credentials appropriate to the level of education needed shall be provided by the employer.

F. The labor department shall promulgate rules for employers in the performing arts, including education and safety requirements."

### **Chapter 257 Section 4 Laws 2007**

Section 4. Section 50-6-1 NMSA 1978 (being Laws 1925, Chapter 79, Section 1, as amended) is amended to read:

"50-6-1. CHILDREN UNDER FOURTEEN--EMPLOYMENT PROHIBITED.--No child under fourteen years of age shall be employed or permitted to labor at any gainful occupation unless otherwise provided for in the Child Labor Act."

### **Chapter 257 Section 5 Laws 2007**

Section 5. Section 50-6-2 NMSA 1978 (being Laws 1925, Chapter 79, Section 2, as amended) is amended to read:

"50-6-2. WORK PERMIT FOR CHILDREN FOURTEEN TO SIXTEEN.--A child over the age of fourteen years and under the age of sixteen years shall not be employed or permitted to labor at any gainful occupation without procuring and filing a work permit unless otherwise provided for in the Child Labor Act."

### **Chapter 257 Section 6 Laws 2007**

Section 6. Section 50-6-3 NMSA 1978 (being Laws 1925, Chapter 79, Section 3, as amended) is amended to read:

"50-6-3. MAXIMUM HOURS FOR CHILDREN FOURTEEN TO SIXTEEN.--

A. Children over the age of fourteen and under the age of sixteen years shall not be employed or permitted to labor at any gainful occupation for more than forty hours in any one week nor more than eight hours in any one day when school is not in session unless otherwise provided for in the Child Labor Act.

B. Children over the age of fourteen or under the age of sixteen shall not be employed unless otherwise provided for in the Child Labor Act:

(1) before 7:00 a.m. or after 7:00 p.m. during the calendar school year;

(2) before 7:00 a.m. or after 9:00 p.m. outside of the calendar school year;

(3) during school hours, except as provided for in work experience and career exploration programs;

(4) more than three hours per day during school days; or

(5) more than eighteen hours per week during school weeks."

## **Chapter 257 Section 7 Laws 2007**

Section 7. Section 50-6-4 NMSA 1978 (being Laws 1925, Chapter 79, Section 5, as amended) is amended to read:

"50-6-4. PROHIBITED OCCUPATIONS FOR CHILDREN UNDER SIXTEEN--  
EXCEPTIONS.--

A. A child under the age of sixteen years shall not be employed or permitted to labor at any of the following occupations or in any of the following positions:

(1) on or around belted machines while in motion;

(2) on or around power-driven woodworking machines used for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening or otherwise assembling, processing or printing wood or veneer;

(3) on or around power-driven hoisting apparatus with the exception that this section shall not prohibit the operation of an automatic elevator that is controlled by pushbuttons making leveling, holding, opening and closing of the car and hoistway doors entirely automatic;

(4) in or about plants, establishments or jobs using, manufacturing or storing explosives or articles containing explosive components;

(5) electronics jobs where the child is exposed to electrical hazards;

(6) in or about any establishment where malt or alcoholic beverages are manufactured, packed, wrapped or bottled;

(7) municipal firefighting whether using volunteers or paid employees;

(8) manufacture of goods for immoral purposes;

(9) in any employment dangerous to lives and limbs or injurious to the health or morals of children under the age of sixteen years; or

(10) soliciting door-to-door for other than a nonprofit organization or in other activities approved by the parent or guardian.

B. The provisions of this section do not apply to:

(1) children engaged in working with equipment in any school or place where cooperative education or science is taught while under supervision of an instructor;

(2) apprentices while under the supervision of a journeyman in a certified apprenticeship program; or

(3) children employed in a film or television production, where the set may be considered physically hazardous or special effects are used; provided that a New Mexico-certified trainer or technician accredited in a United States department of labor occupational safety and health administration-certified safety program specific to the film or television industry is present at all times that the child is exposed to the potentially hazardous condition.

C. Additional hazardous occupations not specifically listed in this section shall be determined by the state child labor inspector following consultation with the employer who wishes to employ minors over the age of fourteen years and under sixteen years of age."

## **Chapter 257 Section 8 Laws 2007**

Section 8. Section 50-6-7 NMSA 1978 (being Laws 1925, Chapter 79, Section 8, as amended) is amended to read:

"50-6-7. WORK PERMIT--ISSUANCE--AUTHORIZED OFFICIALS--APPLICATION--CONTENTS--PROOF--COPIES--MAXIMUM TERM.--

A. Work permits shall be issued only by the school superintendents, school principals, designated issuing school officers or the director of the labor and industrial division of the labor department or the director's designee.

B. A work permit shall not be issued to a child until satisfactory proof has been furnished that the work in which the child is to engage is not dangerous to the child or injurious to the child's health or morals.

C. The application for the work permit shall show that the work to be performed would not result in injury to the health, morals or mental development of the child. Satisfactory proof of the age of the child at the date of the application shall be furnished. Any application for the employment of children at any gainful occupation during the session hours of the school of the district in which the child resides shall set forth, in addition to the foregoing, the necessity to the family or the dependents of the child or for the child's own support of the income to be derived from the employment or labor.

D. Whenever the person authorized to issue the work permit is satisfied that the provisions of this section have been complied with, the person shall issue to the child a work permit, keeping one copy on file and sending one copy of the permit to the labor and industrial division of the labor department.

E. No work permit shall be in force without renewal for a longer period than one year from the date of issuance."

## **Chapter 257 Section 9 Laws 2007**

Section 9. Section 50-6-8 NMSA 1978 (being Laws 1925, Chapter 79, Section 9, as amended) is amended to read:

"50-6-8. RENEWAL OF WORK PERMITS.--The officer authorized to issue work permits may renew a work permit at the expiration date thereof for a period not exceeding one year upon a satisfactory showing upon the part of the child, the child's parent, guardian or custodian that the provisions of the Child Labor Act are being complied with and that the child is in good health. The extension of time shall be made by the officer writing upon the certificate the following words: "this work permit is extended for a period of ..... days from this date" and by the officer signing the certificate."

## **Chapter 257 Section 10 Laws 2007**

Section 10. Section 50-6-9 NMSA 1978 (being Laws 1925, Chapter 79, Section 10, as amended) is amended to read:

"50-6-9. EMPLOYER'S RECORDS--FORM OF PERMITS.--Whenever any child is employed or permitted to labor at any gainful occupation permitted by the laws of this state, the employer of the child shall preserve on file the work permit of the child and

shall keep posted in a conspicuous place about the premises where the child is employed a list of all children there at work by virtue of work permits. The form for all work permits shall be prepared by and shall contain such information concerning the identity of the child as may be prescribed by the labor and industrial division of the labor department."

### **Chapter 257 Section 11 Laws 2007**

Section 11. Section 50-6-10 NMSA 1978 (being Laws 1925, Chapter 79, Section 11, as amended) is amended to read:

"50-6-10. INSPECTION OF WORK PERMITS, RECORDS AND PREMISES BY THE LABOR AND INDUSTRIAL DIVISION OF THE LABOR DEPARTMENT.--All work permits and records and the premises where children are employed are subject to inspection by representatives of the labor and industrial division of the labor department. The director of the division may, for cause, cancel a work permit with the concurrence of the officer issuing the permit but, in case they disagree, the district court may cancel the permit on complaint setting forth the grounds therefor under the provisions of the Child Labor Act."

### **Chapter 257 Section 12 Laws 2007**

Section 12. Section 50-6-12 NMSA 1978 (being Laws 1925, Chapter 79, Section 13, as amended) is amended to read:

"50-6-12. PENALTIES.--

A. A person who employs a child, or who is the parent, guardian or custodian of a child, and who permits that child to be employed in violation of any of the provisions of the Child Labor Act is guilty of a petty misdemeanor. Each violation of the Child Labor Act constitutes a separate offense. A second or subsequent conviction of an employer, parent, guardian or custodian for violation of the Child Labor Act is a misdemeanor.

B. The director of the labor and industrial division of the labor department may report a violation of the Child Labor Act to the local district attorney, who may prosecute the alleged violator."

### **Chapter 257 Section 13 Laws 2007**

Section 13. Section 50-6-13 NMSA 1978 (being Laws 1925, Chapter 79, Section 14) is amended to read:

"50-6-13. DISTRICT COURT JURISDICTION.--The district courts are hereby given original jurisdiction in all cases of violations of the provisions of the Child Labor Act."

## **Chapter 257 Section 14 Laws 2007**

Section 14. Section 50-6-14 NMSA 1978 (being Laws 1925, Chapter 79, Section 15, as amended) is amended to read:

"50-6-14. STATE CHILD LABOR INSPECTOR--APPOINTMENT--DIRECTION--QUALIFICATIONS.--There shall be a "state child labor inspector", appointed by and subject to the director of the labor and industrial division of the labor department. The inspector must be qualified by special training and experience for this work and must pass a satisfactory examination given by the director of the labor and industrial division of the labor department."

## **Chapter 257 Section 15 Laws 2007**

Section 15. A new section of the Child Labor Act is enacted to read:

"CHILDREN EMPLOYED IN THE PERFORMING ARTS--TRUST ACCOUNT--REQUIREMENTS.--

A. Whenever a child is employed in the performing arts, the child's parent, guardian or trustee shall establish a trust account in the child's state of residence for the benefit of the child within seven business days after the child's employment contract is signed, and the employer shall deposit fifteen percent of the child's gross earnings directly into the child's trust account.

B. The money placed in trust shall not be accessed until the child is eighteen years of age or becomes legally emancipated, unless otherwise ordered by the district court.

C. The parent, guardian or trustee shall provide the child's employer with a trustee statement within fifteen days after the start of employment. Upon the presentation of the trustee statement, the employer shall provide the parent, guardian or trustee with a written acknowledgment of receipt of the statement.

D. If the parent, guardian or trustee fails to provide the child's employer with a trustee statement within ninety days after the start of employment, the child's employer shall refer the matter to the district court and a trustee shall be appointed for the child.

E. The child's employer shall deposit fifteen percent of the child's gross earnings into the child's trust account within fifteen business days of services rendered. If the account is not established, the child's employer shall withhold fifteen percent until a trust account is established for the child's benefit.

F. Once the child's employer deposits fifteen percent of the child's gross earnings in trust, the child's employer shall have no further obligation or duty to monitor the funds.

G. The trustee shall be the only individual with an obligation to monitor and account for the funds, in compliance with state law.

H. The district court shall have continuing jurisdiction over the trust and may at any time, upon petition of the parent, guardian, trustee or child, order that the trust be terminated or amended for good cause. An order amending or terminating the trust shall be made only after reasonable notice and the opportunity for all parties to appear and be heard have been given.

I. This section applies only to contracts in an amount equal to or greater than one thousand dollars (\$1,000) in gross earnings.

J. For the purposes of this section, "gross earnings" means the total compensation payable to the child under the contract or, if the child's services are being rendered through a third party, the compensation payable to that third party for the services of the child."

## **Chapter 257 Section 16 Laws 2007**

Section 16. REPEAL.--Sections 50-6-6, 50-6-15 and 50-6-16 NMSA 1978 (being Laws 1925, Chapter 79, Section 7, Laws 1963, Chapter 175, Section 4 and Laws 1959, Chapter 298, Section 1, as amended) are repealed.

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Senate Corporations and Transportation

Committee Substitute for Senate Public Affairs

Committee Substitute for Senate Bill 175, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 258**

AN ACT

RELATING TO EMPLOYMENT BENEFITS FOR CERTAIN LAW ENFORCEMENT EMPLOYEES.

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

## **Chapter 258 Section 1 Laws 2007**

Section 1. UNDERCOVER AGENTS--LIFE INSURANCE BENEFITS.--

A. The state and any political subdivision of the state shall provide paid life insurance in the amount of at least two hundred fifty thousand dollars (\$250,000) for employees during any period of employment when an employee is working as an undercover agent.

B. As used in this section:

(1) "undercover agent" means a law enforcement officer who is actively involved in the investigation of alleged violations of state or federal law and whose identity as a law enforcement officer is being concealed; and

(2) "law enforcement officer" means a state or municipal police officer, county sheriff, deputy sheriff, conservation officer, motor transportation enforcement officer or other state employee authorized by state law to enforce criminal statutes.

C. The department of public safety shall adopt rules necessary to determine the eligibility of undercover agents for paid life insurance pursuant to Subsection A of this section.

## **Chapter 258 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Finance Committee Substitute

for Senate Bill 186

Approved April 2, 2007

## **LAWS 2007, CHAPTER 259**

AN ACT

RELATING TO CHARTER SCHOOLS; PROVIDING FOR EMPLOYMENT DECISIONS BY THE HEAD ADMINISTRATOR; CONFORMING THE NEPOTISM PROVISIONS TO THOSE OF SCHOOL DISTRICTS.

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

## **Chapter 259 Section 1 Laws 2007**

Section 1. Section 22-8B-10 NMSA 1978 (being Laws 1999, Chapter 281, Section 10, as amended) is amended to read:

"22-8B-10. CHARTER SCHOOLS--EMPLOYEES.--

A. A charter school shall hire its own employees. The provisions of the School Personnel Act shall apply to such employees provided, however, that a charter school may determine by indicating in its charter that either its governing body or head administrator shall make all employment decisions. The governing body shall be deemed to be responsible for making all employment decisions if the charter does not specify the decision maker.

B. The head administrator of a charter school shall not initially employ or approve the initial employment in any capacity of a person who is the spouse, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter or daughter-in-law of a member of the governing body or the head administrator. The governing body may waive the nepotism rule for family members of a head administrator.

C. Nothing in this section shall prohibit the continued employment of a person employed on or before July 1, 2007."

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Senate Bill 189, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 260**

AN ACT

RELATING TO CONTROLLED SUBSTANCES; PROVIDING LIMITED IMMUNITY FROM PROSECUTION FOR A PERSON WHO SEEKS OR OBTAINS MEDICAL ASSISTANCE FOR A DRUG-RELATED OVERDOSE.

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

### **Chapter 260 Section 1 Laws 2007**

Section 1. A new section of the Controlled Substances Act is enacted to read:

"OVERDOSE PREVENTION--LIMITED IMMUNITY.--

A. A person who, in good faith, seeks medical assistance for someone experiencing a drug-related overdose shall not be charged or prosecuted for possession of a controlled substance pursuant to the provisions of Section 30-31-23 NMSA 1978 if

the evidence for the charge of possession of a controlled substance was gained as a result of the seeking of medical assistance.

B. A person who experiences a drug-related overdose and is in need of medical assistance shall not be charged or prosecuted for possession of a controlled substance pursuant to the provisions of Section 30-31-23 NMSA 1978 if the evidence for the charge of possession of a controlled substance was gained as a result of the overdose and the need for medical assistance.

C. The act of seeking medical assistance for someone who is experiencing a drug-related overdose may be used as a mitigating factor in a criminal prosecution pursuant to the Controlled Substances Act."

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Senate Bill 200

Approved April 2, 2007

## **LAWS 2007, CHAPTER 261**

AN ACT

RELATING TO RECORDING REAL PROPERTY DOCUMENTS; ENACTING THE UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT; PROVIDING FOR THE OPTIONAL RECORDING OF ELECTRONIC REAL PROPERTY DOCUMENTS BY COUNTY CLERKS AND THE VALIDITY OF REAL PROPERTY DOCUMENTS WITH ELECTRONIC SIGNATURES.

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

### **Chapter 261 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "Uniform Real Property Electronic Recording Act".

### **Chapter 261 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the Uniform Real Property Electronic Recording Act:

A. "document" means information that is:

(1) inscribed on a tangible medium or that is stored in an electronic or other medium and that is retrievable in perceivable form; and

(2) eligible to be recorded in the land records maintained by a county clerk;

B. "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities;

C. "electronic document" means a document that is received by a county clerk in an electronic form;

D. "electronic signature" means an electronic sound, symbol or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document;

E. "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity; and

F. "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

## **Chapter 261 Section 3 Laws 2007**

### Section 3. VALIDITY OF ELECTRONIC DOCUMENTS.--

A. If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium or be in writing, the requirement is satisfied by an electronic document satisfying the Uniform Real Property Electronic Recording Act.

B. If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

C. A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed or made under oath is satisfied if the electronic signature of the person authorized to perform that act and all other information required to be included is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression or seal need not accompany an electronic signature.

## **Chapter 261 Section 4 Laws 2007**

### Section 4. RECORDING OF DOCUMENTS.--

A. In this section, "paper document" means a document that is received by the county clerk in a form that is not electronic.

B. A county clerk:

(1) who implements any of the functions listed in this section shall do so in compliance with standards established by the information technology commission and the state commission of public records, in consultation with the county clerks of New Mexico, pursuant to Section 5 of the Uniform Real Property Electronic Recording Act;

(2) may receive, index, store, archive and transmit electronic documents;

(3) may provide for access to and for search and retrieval of documents and information by electronic means;

(4) who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index;

(5) may convert paper documents accepted for recording into electronic form;

(6) may convert into electronic form information recorded before the county clerk began to record electronic documents;

(7) may accept electronically any fee that the county clerk is authorized to collect; and

(8) may agree with other officials of a state, of a political subdivision of a state or of the United States on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees.

## **Chapter 261 Section 5 Laws 2007**

### **Section 5. ADMINISTRATION AND STANDARDS.--**

A. The information technology commission and the state commission of public records, in consultation with the county clerks of New Mexico, shall adopt standards to implement the Uniform Real Property Electronic Recording Act.

B. To keep the standards and practices of county clerks in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially the Uniform Real Property Electronic Recording Act and to keep the technology used by county clerks in this state compatible with technology used by recording offices in other jurisdictions that enact substantially the Uniform Real Property Electronic Recording Act, the information technology commission and the state commission of public records, in consultation with the county clerks of New Mexico, so far as is consistent with the purposes, policies and provisions of the Uniform Real

Property Electronic Recording Act, in adopting, amending and repealing standards shall consider:

- (1) standards and practices of other jurisdictions;
- (2) the most recent standards promulgated by national standard-setting bodies, such as the property records industry association;
- (3) the views of interested persons and governmental officials and entities;
- (4) the needs of counties of varying size, population and resources; and
- (5) standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved and resistant to tampering.

C. The secretary of state may adopt and promulgate rules to implement the provisions of Subsection C of Section 3 of the Uniform Electronic Recording Act by providing for the electronic notarization, acknowledgment, verification, swearing or affirming under oath and other notarial acts by notaries public with respect to a document or signature.

## **Chapter 261 Section 6 Laws 2007**

Section 6. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Uniform Real Property Electronic Recording 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 261 Section 7 Laws 2007**

Section 7. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Uniform Real Property Electronic Recording Act modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act but does not modify, limit or supersede Section 101(c) of that act or authorize electronic delivery of any of the notices described in Section 103(b) of that act.

## **Chapter 261 Section 8 Laws 2007**

Section 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

Approved April 2, 2007

## **LAWS 2007, CHAPTER 262**

### **AN ACT**

RELATING TO TAXATION; ALLOWING TAXPAYERS TO REQUEST EARLY COMPLETION OF AUDITS; EXTENDING THE TIME PERIOD DURING WHICH MANAGED AUDIT PARTICIPANTS MAY MAKE INTEREST-FREE PAYMENTS ON DELINQUENT TAXES; STATING EXCEPTIONS TO DELINQUENT TAXPAYER STATUS; AMENDING SECTIONS OF THE NMSA 1978; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2001.

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

### **Chapter 262 Section 1 Laws 2007**

Section 1. Section 7-1-11 NMSA 1978 (being Laws 1965, Chapter 248, Section 16, as amended by Laws 2001, Chapter 16, Section 4 and also by Laws 2001, Chapter 56, Section 4) is amended to read:

#### **"7-1-11. INSPECTION OF BOOKS OF TAXPAYERS--CREDENTIALS.--**

A. The department shall cause the records and books of account of taxpayers to be inspected or audited at such times as the department deems necessary for the effective execution of the department's responsibilities.

B. Auditors and other officials of the department designated by the secretary are authorized to request and require the production for examination of the records and books of account of a taxpayer. Auditors and officials of the department designated by the secretary shall be furnished with credentials identifying them as such, which they shall display to any taxpayer whose books are sought to be examined.

C. Taxpayers shall upon request make their records and books of account available for inspection at reasonable hours to the secretary or the secretary's delegate who presents proper identification to the taxpayer.

D. If the taxpayer's records and books of account do not exist or are insufficient to determine the taxpayer's tax liability, if any, the department may use any reasonable method of estimating the tax liability, including but not limited to using information about similar persons, businesses or industries to estimate the taxpayer's liability.

E. The secretary or the secretary's delegate shall develop and maintain written audit policies and procedures for all audit programs in which the department routinely conducts field audits of taxpayers, including policies and procedures concerning audit notification, scheduling, records that may be examined, analysis that may be done,

sampling procedures, gathering information or evidence from third parties, policies concerning the rights of taxpayers under audit and related matters. Department audit policies and procedures shall be made available to a person who requests them, at a reasonable charge to defray the cost of preparing and distributing those policies and procedures. Nothing in this section shall be construed to require the department to provide information that is confidential pursuant to Section 7-1-8 NMSA 1978, nor shall the department be required to provide information concerning how taxpayers are selected for audit."

## **Chapter 262 Section 2 Laws 2007**

Section 2. Section 7-1-11.2 NMSA 1978 (being Laws 2003, Chapter 398, Section 7) is amended to read:

### **"7-1-11.2. REQUIRED AUDIT NOTICES.--**

A. Except as provided in Subsection G of this section, prior to or coincident with requesting records and books of account from a taxpayer pursuant to Section 7-1-11 NMSA 1978, as part of an office or field audit, the department shall provide the taxpayer with written dated notice of the commencement of an audit. The notice shall, at a minimum, state the tax programs and reporting periods to be covered and the date on which the audit is commenced.

B. To any taxpayer to whom the department is required to provide a written notice of the commencement of an audit, the department shall also provide a written notice of the outstanding records or books of account that have been requested but not received. If the taxpayer has provided all records and books of account requested, the notice shall so state. The notice of outstanding records or books of account shall be given no sooner than sixty days, unless the taxpayer provides a written request for early completion of the audit, and no later than one hundred eighty days after the date of the commencement of the audit. The notice of outstanding records or books of account shall be dated and shall provide reasonable descriptions of any records or books of account needed or the information expected to be contained in them and shall give the taxpayer ninety days to comply with Section 7-1-11 NMSA 1978. The notice shall state that if the taxpayer does not properly comply within ninety days of the date of the notice, the department will proceed to issue any assessment of tax due on the basis of information available.

C. A taxpayer may request additional time to comply with the notice of outstanding records and books of account. Such request shall be in writing and shall state the amount of time needed.

D. If the department does not issue an assessment within one hundred eighty days after giving a notice of outstanding records or books of account or within ninety days after the expiration of the additional time requested by the taxpayer to comply, if

such request was granted, interest shall be computed in accordance with Paragraph (6) of Subsection A of Section 7-1-67 NMSA 1978.

E. Any taxpayer who was not provided a proper notice of outstanding records or books of account is entitled to computation of interest in accordance with Paragraph (7) of Subsection A of Section 7-1-67 NMSA 1978.

F. Nothing in this section shall prevent the department from requesting from the taxpayer a waiver of the statute of limitations for assessment of tax owed. Nothing in this section shall prevent the department from issuing an assessment of tax owed on the basis of the information available.

G. This section does not apply to investigations of fraud."

### **Chapter 262 Section 3 Laws 2007**

Section 3. Section 7-1-16 NMSA 1978 (being Laws 1965, Chapter 248, Section 19, as amended) is amended to read:

"7-1-16. DELINQUENT TAXPAYER.--

A. Except as provided in Subsection D of this section, any taxpayer to whom taxes have been assessed as provided in Section 7-1-17 NMSA 1978 or upon whom demand for payment has been made as provided in Section 7-1-63 NMSA 1978 who does not within thirty days after the date of assessment or demand for payment make payment, protest the assessment or demand for payment as provided by Section 7-1-24 NMSA 1978 or furnish security for payment as provided by Section 7-1-54 NMSA 1978 becomes a delinquent taxpayer and remains such until:

(1) payment of the total amount of all such taxes is made;

(2) a retroactive extension of time to file a protest is granted pursuant to Section 7-1-24 NMSA 1978; provided, however, that the taxpayer again becomes a delinquent taxpayer if the assessment is not abated and the taxpayer does not pay, protest or furnish security within the time allowed by the retroactive extension of time;

(3) security is furnished for payment; or

(4) no part of the assessment remains unabated.

B. Any taxpayer who fails to provide security as required by Subsection D of Section 7-1-54 NMSA 1978 shall be deemed to be a delinquent taxpayer.

C. If a taxpayer files a protest as provided in Section 7-1-24 NMSA 1978, the taxpayer nevertheless becomes a delinquent taxpayer upon failure of the taxpayer to appear, in person or by authorized representative, at the hearing set or upon failure to

perfect an appeal from any decision or part thereof adverse to the taxpayer to the next higher appellate level, as provided in that section, unless the taxpayer makes payment of the total amount of all taxes assessed and remaining unabated or furnishes security for payment.

D. A taxpayer does not become a delinquent taxpayer if the taxpayer:

(1) files for an extension of time to file a protest as provided in Section 7-1-24 NMSA 1978 within thirty days after the date of the assessment or demand for payment, unless the assessment is not abated and the taxpayer does not pay, protest or furnish security within the time allowed by the extension of time; or

(2) has been issued an assessment as a result of a managed audit but is still within the allowed time period to pay the tax due as specified in Paragraph (4) of Subsection A of Section 7-1-67 NMSA 1978."

## **Chapter 262 Section 4 Laws 2007**

Section 4. Section 7-1-67 NMSA 1978 (being Laws 1965, Chapter 248, Section 68, as amended) is amended to read:

"7-1-67. INTEREST ON DEFICIENCIES.--

A. If a tax imposed is not paid on or before the day on which it becomes due, interest shall be paid to the state on that amount from the first day following the day on which the tax becomes due, without regard to any extension of time or installment agreement, until it is paid, except that:

(1) for income tax imposed on a member of the armed services of the United States serving in a combat zone under orders of the president of the United States, interest shall accrue only for the period beginning the day after any applicable extended due date if the tax is not paid;

(2) if the amount of interest due at the time payment is made is less than one dollar (\$1.00), then no interest shall be due;

(3) if demand is made for payment of a tax, including accrued interest, and if the tax is paid within ten days after the date of the demand, no interest on the amount paid shall be imposed for the period after the date of the demand;

(4) if a managed audit is completed by the taxpayer on or before the date required, as provided in the agreement for the managed audit, and payment of any tax found to be due is made in full within one hundred eighty days of the date the secretary has mailed or delivered an assessment for the tax to the taxpayer, no interest shall be due on the assessed tax;

(5) when, as the result of an audit or a managed audit, an overpayment of a tax is credited against an underpayment of tax pursuant to Section 7-1-29 NMSA 1978, interest shall accrue from the date the tax was due until the tax is deemed paid;

(6) if the department does not issue an assessment for the tax program and period within the time provided in Subsection D of Section 7-1-11.2 NMSA 1978, interest shall be paid from the first day following the day on which the tax becomes due until the tax is paid, excluding the period between either:

(a) the one hundred eightieth day after giving a notice of outstanding records or books of account and the date of the assessment of the tax; or

(b) the ninetieth day after the expiration of the additional time requested by the taxpayer to comply, if such request was granted, and the date of the assessment of the tax; and

(7) if the taxpayer was not provided with proper notices as required in Section 7-1-11.2 NMSA 1978, interest shall be paid from the first day following the day on which the tax becomes due until the tax is paid, excluding the period between one hundred eighty days prior to the date of assessment and the date of assessment.

B. Interest due to the state under Subsection A or D of this section shall be at the rate of fifteen percent a year, computed on a daily basis; provided that if a different rate is specified by a compact or other interstate agreement to which New Mexico is a party, that rate shall be applied to amounts due under the compact or other agreement.

C. Nothing in this section shall be construed to impose interest on interest or interest on the amount of any penalty.

D. If any tax required to be paid in accordance with Section 7-1-13.1 NMSA 1978 is not paid in the manner required by that section, interest shall be paid to the state on the amount required to be paid in accordance with Section

7-1-13.1 NMSA 1978. If interest is due under this subsection and is also due under Subsection A of this section, interest shall be due and collected only pursuant to Subsection A of this section."

## **Chapter 262 Section 5 Laws 2007**

Section 5. REPEAL.--Laws 2001, Chapter 16, Section 4 is repealed.

## **Chapter 262 Section 6 Laws 2007**

Section 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 203

Approved April 2, 2007

## **LAWS 2007, CHAPTER 263**

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING REPORTS OF SCHOOL EMPLOYEE MISCONDUCT; PROVIDING THAT SETTLEMENT AGREEMENT CONFIDENTIALITY PROVISIONS DO NOT RELIEVE RESPONSIBILITY FOR REPORTING.

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

### **Chapter 263 Section 1 Laws 2007**

Section 1. Section 22-10A-5 NMSA 1978 (being Laws 1997, Chapter 238, Section 1, as amended) is amended to read:

"22-10A-5. BACKGROUND CHECKS--KNOWN CONVICTIONS--ALLEGED ETHICAL MISCONDUCT--REPORTING REQUIRED--LIMITED IMMUNITY--PENALTY FOR FAILURE TO REPORT.--

A. As used in this section, "ethical misconduct" means unacceptable behavior or conduct engaged in by a licensed school employee and includes inappropriate touching, sexual harassment, discrimination and behavior intended to induce a child into engaging in illegal, immoral or other prohibited behavior.

B. An applicant for initial licensure shall be fingerprinted and shall provide two fingerprint cards or the equivalent electronic fingerprints to the department to obtain the applicant's federal bureau of investigation record. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act. Other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the denial, suspension or revocation of a license for good and just cause. Records and related information shall be privileged and shall not be disclosed to a person not directly involved in the licensure or employment decisions affecting the specific applicant. The applicant for initial licensure shall pay for the cost of obtaining the federal bureau of investigation record.

C. Local school boards and regional education cooperatives shall develop policies and procedures to require background checks on an applicant who has been

offered employment, a contractor or a contractor's employee with unsupervised access to students at a public school.

D. An applicant for employment who has been initially licensed within twenty-four months of applying for employment with a local school board, regional education cooperative or a charter school shall not be required to submit to another background check if the department has copies of the applicant's federal bureau of investigation records on file. An applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students at a public school shall provide two fingerprint cards or the equivalent electronic fingerprints to the local school board, regional education cooperative or charter school to obtain the applicant's federal bureau of investigation record. The applicant, contractor or contractor's employee who has been offered employment by a regional education cooperative or at a public school may be required to pay for the cost of obtaining a background check. At the request of a local school board, regional education cooperative or charter school, the department is authorized to release copies of federal bureau of investigation records that are on file with the department and that are not more than twenty-four months old. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act; provided that other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the employment decisions for good and just cause. Records and related information shall be privileged and shall not be disclosed to a person not directly involved in the employment decision affecting the specific applicant who has been offered employment, contractor or contractor's employee with unsupervised access to students at a public school.

E. A local superintendent, charter school administrator or regional education cooperative shall report to the department any known conviction of a felony or misdemeanor involving moral turpitude of a licensed school employee that results in any type of action against the licensed school employee.

F. A local superintendent, charter school administrator or director of a regional education cooperative or their respective designees shall investigate all allegations of ethical misconduct about any licensed school employee who resigns, is being discharged or terminated or otherwise leaves employment after an allegation has been made. If the investigation results in a finding of wrongdoing, the local superintendent, charter school administrator or director of a regional education cooperative shall report the identity of the licensed school employee and attendant circumstances of the ethical misconduct on a standardized form to the department and the licensed school employee within thirty days following the separation from employment. Copies of that form shall not be maintained in public school, school district or regional education cooperative records. No agreement between a departing licensed school employee and the local school board, school district, charter school or regional education cooperative shall diminish or eliminate the responsibility of investigating and reporting the alleged ethical misconduct, and any such agreement to the contrary is void. Unless the department has commenced its own investigation of the licensed school employee prior

to receipt of the form, the department shall serve the licensed school employee with a notice of contemplated action involving that employee's license within ninety days of receipt of the form. If that notice of contemplated action is not served on the licensed school employee within ninety days of receipt of the form, the form, together with any documents related to the alleged ethical misconduct, shall be expunged from the licensed school employee's records with the department and shall not be subject to public inspection.

G. The secretary may suspend, revoke or refuse to renew the license of a local superintendent, charter school administrator or regional education cooperative director who fails to report as required by Subsections E and F of this section.

H. A person who in good faith reports as provided in Subsections E and F of this section shall not be held liable for civil damages as a result of the report. The person being accused shall have the right to sue for any damages sustained as a result of negligent or intentional reporting of inaccurate information or the disclosure of any information to an unauthorized person."

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Senate Judiciary Committee Substitute for

Senate Bill 210, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 264**

### **AN ACT**

RELATING TO EDUCATION; ESTABLISHING A UNIFORM STATEWIDE TEACHER ACCOUNTABILITY REPORTING SYSTEM; REQUIRING THE PUBLIC EDUCATION DEPARTMENT TO ISSUE RULES FOR TRAINING AND OTHER REQUIREMENTS FOR UNLICENSED CONTENT AREA EXPERTS; CLARIFYING TEACHER MENTORSHIP PROGRAM COMPONENTS; CHANGING THE DISTRIBUTION OF FUNDS FOR MENTORSHIP PROGRAMS; REQUIRING A UNIFORM STUDENT IDENTIFICATION NUMBER FOR PUBLIC SCHOOLS AND PUBLIC POST-SECONDARY EDUCATIONAL INSTITUTIONS.

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

### **Chapter 264 Section 1 Laws 2007**

Section 1. Section 22-10A-8 NMSA 1978 (being Laws 2003, Chapter 153, Section 39) is amended to read:

"22-10A-8. ALTERNATIVE LEVEL ONE LICENSE.--

A. The department shall issue an alternative level one license to a person who is at least eighteen years of age and who has:

(1) completed a baccalaureate degree at an accredited institution of higher education, including completion of a minimum of thirty credit hours at either the undergraduate or graduate level in the subject area of instruction for which the person is applying for a license;

(2) completed a master's degree at an accredited institution of higher education, including completion of a minimum of twelve graduate credit hours in the subject area of instruction for which the person is applying for a license; or

(3) completed a doctoral or law degree at an accredited institution of higher education; and

(4) passed the New Mexico teacher assessments examination; and

(5) completed a minimum of twelve semester hours of instruction in teaching principles in a program approved by the department; or

(6) demonstrated to the department, in conjunction with the school district or state agency, that the person has met the department-approved competencies for level one teachers that correspond to the grade level that will be taught.

B. A degree referred to in Subsection A of this section shall correspond to the subject area of instruction and the particular grade level that will enable the applicant to teach in a competent manner as determined by the department.

C. An alternative level one teacher shall participate in the same mentorship, evaluation and other professional development requirements as other level one teachers.

D. A school district or state agency shall not discriminate against a teacher on the basis that the teacher holds an alternative level one license.

E. The department shall provide by rule for training and other requirements to support the use of unlicensed content area experts as resources in classrooms, team teaching, on-line instruction, curriculum development and other purposes."

## **Chapter 264 Section 2 Laws 2007**

Section 2. A new section of Chapter 22, Article 10A NMSA 1978 is enacted to read:

## "TEACHER EDUCATION ACCOUNTABILITY REPORT.--

### A. The department shall:

(1) design a uniform statewide teacher education accountability reporting system to measure and track teacher education candidates from pre-entry to post-graduation in order to benchmark the productivity and accountability of New Mexico's teacher work force; provided that the system shall be designed in collaboration with:

(a) all public post-secondary teacher preparation programs in New Mexico, including those programs that issue alternative licenses;

(b) the teacher preparation programs' respective public post-secondary educational institutions; and

(c) the higher education department;

(2) require all public post-secondary teacher preparation programs to submit the data required for the uniform statewide teacher education accountability reporting system through the department's student teacher accountability reporting system;

(3) use the uniform statewide teacher education accountability reporting system, in conjunction with the department's student teacher education accountability reporting system, to assess the status of the state's efforts to establish and maintain a seamless pre-kindergarten through post-graduate system of education;

(4) adopt the format for reporting the outcome measures of each teacher preparation program in the state; and

(5) issue an annual statewide teacher education accountability report.

B. The annual teacher education accountability report format shall be clear, concise and understandable to the legislature and the general public. All annual program and statewide accountability reports shall ensure that the privacy of individual students is protected.

C. Each teacher preparation program's annual teacher education accountability report shall include the demographic characteristics of the students and the following indicators of program success:

(1) the standards for entering and exiting the program;

(2) the number of hours required for field experience and for student teaching;

(3) the number and percentage of students needing developmental course work upon entering the program;

(4) the number and percentage of students completing the program;

(5) the number and types of degrees received by students who complete the program;

(6) the number and percentage of students who pass the New Mexico teacher assessments for initial licensure on the first attempt;

(7) a description of the program's placement practices; and

(8) the number and percentage of students hired by New Mexico school districts.

D. The teacher education accountability report shall include an evaluation plan that includes high performance objectives. The plan shall include objectives and measures for:

(1) increasing student achievement for all students;

(2) increasing teacher retention, particularly in the first three years of a teacher's career;

(3) increasing the percentage of students who pass the New Mexico teacher assessments for initial licensure on the first attempt;

(4) increasing the percentage of secondary school classes taught in core academic subject areas by teachers who demonstrate by means of rigorous content area assessments a high level of subject area mastery and a thorough knowledge of the state's academic content and performance standards;

(5) increasing the percentage of elementary school classes taught by teachers who demonstrate by means of a high level of performance in core academic subject areas their mastery of the state academic content and performance standards; and

(6) increasing the number of teachers trained in math, science and technology.

E. In addition to the specifications in Subsections C and D of this section, the annual teacher education accountability report shall also include itemized information on program revenues and expenditures, including staff salaries and benefits and the operational cost per credit hour.

F. The annual teacher education accountability report shall be adopted by each public post-secondary educational institution, reported in accordance with guidelines established by the department to ensure effective communication with the public and disseminated to the governor, legislators and other policymakers and business and economic development organizations by November 1 of each year."

## **Chapter 264 Section 3 Laws 2007**

Section 3. Section 22-10A-9 NMSA 1978 (being Laws 2003, Chapter 153, Section 40, as amended by Laws 2005, Chapter 315, Section 6 and by Laws 2005, Chapter 316, Section 3) is amended to read:

### **"22-10A-9. TEACHER MENTORSHIP PROGRAM FOR LEVEL ONE TEACHERS--PURPOSE--DEPARTMENT DUTIES.--**

A. The purpose of the teacher mentorship program is to provide beginning teachers with an effective transition into the teaching field, to build on their initial preparation and to ensure their success in teaching; to improve the achievement of students; and to retain capable teachers in the classroom and to remove teachers who show little promise of success.

B. The department shall develop a framework for a teacher mentorship program for all level one teachers. The department shall work with licensed school employees, representatives from teacher preparation programs and the higher education department to establish the framework.

C. The framework shall include:

(1) individual support and assistance for each beginning teacher from a designated mentor;

(2) structured training for mentors;

(3) an ongoing, formative evaluation that is used for the improvement of teaching practice;

(4) procedures for a summative evaluation of beginning teachers' performance during at least the first three years of teaching, including annual assessment of suitability for license renewal, and for final assessment of beginning teachers seeking level two licensure;

(5) support from local school boards, school administrators and other school district personnel; and

(6) regular review and evaluation of the teacher mentorship program.

D. The department shall:

- (1) require submission and approval of each school district's teacher mentorship program;
- (2) provide technical assistance to school districts that do not have a well-developed teacher mentorship program in place;
- (3) encourage school districts to collaborate with teacher preparation program administrators at institutions of higher education, career educators, educational organizations, regional service centers and other state and community leaders in the teacher mentorship program; and
- (4) distribute available funds for mentorship programs to school districts annually on a per-teacher basis according to the number of beginning teachers on the fortieth day of the school year.

E. The department shall require that teacher preparation programs collaborate with colleges of arts and sciences and high schools to develop a model to provide mentorship services with structured supervision and feedback to each of their graduates who have obtained a teaching position in a public high school, including charter schools; develop cost estimates; and provide recommendations to the legislative education study committee by November 1, 2007. The model shall provide for the following:

- (1) mentorship services for the first year as a level one teacher to each of their graduates who has obtained a teaching position in any New Mexico public high school, including charter schools; provided that teacher preparation programs may enter into contracts or memoranda of agreement with each other or with level three teachers in providing services to their students;
- (2) an annual report to the department of the number of teachers that have completed each of their programs the previous spring or summer and have been hired by public high schools, including charter schools, for the following school year; and
- (3) an annual report providing a description of the mentorship services that will be provided to each of their teachers, including the name of the teacher, the grade level the teacher has been hired to teach and the name of the school and district where the teacher has been hired."

## **Chapter 264 Section 4 Laws 2007**

Section 4. A new section of Chapter 21, Article 1 NMSA 1978 is enacted to read:

"PUBLIC POST-SECONDARY EDUCATIONAL INSTITUTIONS--STUDENT IDENTIFICATION NUMBER.--

A. The higher education department shall, in collaboration with public post-secondary educational institutions, use the same student identification number issued to a New Mexico public school student pursuant to Section 22-2C-11 NMSA 1978 for a student enrolled in a public post-secondary educational institution, including an off-campus instructional program or learning center.

B. In collaboration with the public education department, the higher education department shall:

(1) develop a system for assigning a unique student identifier to a student who did not attend a New Mexico public school;

(2) add an additional identifier to the student identification number for those students who enter a teacher preparation program; and

(3) adopt the format to report individual student data into the public education department's student teacher accountability reporting system.

C. The higher education department shall promulgate rules to carry out the provisions of this section."

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Senate Finance Committee

Substitute for Senate Bill 211

Approved April 2, 2007

## **LAWS 2007, CHAPTER 265**

AN ACT

RELATING TO PUBLIC WORKS; RAISING THE MINIMUM CONTRACT AMOUNT FOR WHICH A SUBCONTRACTOR IS REQUIRED TO PROVIDE A BOND.

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

### **Chapter 265 Section 1 Laws 2007**

Section 1. Section 13-1-148.1 NMSA 1978 (being Laws 2005, Chapter 99, Section 1) is amended to read:

"13-1-148.1. BONDING OF SUBCONTRACTORS.--A subcontractor shall provide a performance and payment bond on a public works building project if the

subcontractor's contract for work to be performed on a project is one hundred twenty-five thousand dollars (\$125,000) or more."

## **Chapter 265 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Public Affairs Committee

Substitute for Senate Bill 227

Approved April 2, 2007

## **LAWS 2007, CHAPTER 266**

AN ACT

RELATING TO LAND GRANTS; CREATING PROTECTIONS AGAINST ADVERSE POSSESSION CLAIMS TO COMMON LANDS ADMINISTERED BY LAND

GRANT-MERCEDES THAT ARE POLITICAL SUBDIVISIONS; REPEALING SECTIONS 37-1-21 AND 47-1-25 NMSA 1978 (BEING LAWS 1857-1858, P. 64 AND LAWS 1863-1864, P. 54, AS AMENDED).

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

## **Chapter 266 Section 1 Laws 2007**

Section 1. A new Section of Chapter 49, Article 1 NMSA 1978 is enacted to read:

"ADVERSE POSSESSION.--A land grant-merced managed, controlled and governed as a political subdivision pursuant to Chapter 49 NMSA 1978 shall not be subject to adverse possession claims to or defenses against the common lands administered by the political subdivision, provided that those claims or defenses have not vested prior to the effective date of this section."

## **Chapter 266 Section 2 Laws 2007**

Section 2. REPEAL.--Sections 37-1-21 and 47-1-25 NMSA 1978 (being Laws 1857-1858, p. 64 and Laws 1863-1864, p. 54, as amended) are repealed.

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Senate Bill 239, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 267**

AN ACT

RELATING TO THE ENVIRONMENT; PROVIDING CRIMINAL PENALTIES FOR CERTAIN TRANSPORTATION, TREATMENT, STORAGE AND DISPOSAL OF USED OIL.

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

### **Chapter 267 Section 1 Laws 2007**

Section 1. Section 74-4-11 NMSA 1978 (being Laws 1977, Chapter 313, Section 11, as amended) is amended to read:

"74-4-11. PENALTY--CRIMINAL.--

A. No person:

(1) shall knowingly transport or cause to be transported any hazardous waste identified or listed pursuant to the Hazardous Waste Act to a facility that does not have a permit under that act or the federal Resource Conservation and Recovery Act of 1976;

(2) shall knowingly treat, store or dispose of any hazardous waste identified or listed pursuant to the Hazardous Waste Act:

(a) without having obtained a hazardous waste permit pursuant to that act or the federal Resource Conservation and Recovery Act of 1976;

(b) in knowing violation of any material condition or requirement of a hazardous waste permit; or

(c) in knowing violation of any material condition or requirement of any applicable interim status rules or standards;

(3) shall knowingly omit material information or make any false statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with the Hazardous Waste Act;

(4) who knowingly generates, stores, treats, transports, disposes of, exports or otherwise handles any hazardous waste or used oil shall knowingly destroy, alter, conceal or fail to file any record, application, manifest, report or other document required to be maintained or filed for purposes of compliance with rules adopted and promulgated pursuant to the Hazardous Waste Act;

(5) shall knowingly transport without a manifest or cause to be transported without a manifest any hazardous waste required by rules adopted and promulgated pursuant to the Hazardous Waste Act to be accompanied by a manifest;

(6) shall knowingly export hazardous waste identified or listed pursuant to the Hazardous Waste Act:

(a) without the consent of the receiving country; or

(b) where there exists an international agreement between the United States and the government of the receiving country establishing notice, export and enforcement procedures for the transportation, treatment, storage and disposal of hazardous wastes, in a manner that is not in conformance with such agreement; or

(7) shall knowingly store, treat, dispose of, transport, cause to be transported, market or otherwise handle any used oil in knowing violation of any material condition or requirement of any applicable rule adopted and promulgated pursuant to the Hazardous Waste Act.

B. Any person who violates any of the provisions of Paragraphs (1) through (7) of Subsection A of this section is guilty of a fourth degree felony and upon conviction shall be punished by a fine of not more than ten thousand dollars (\$10,000) per violation per day or by imprisonment for a definite term of not more than eighteen months or both. For a second or subsequent violation of the provisions of Paragraphs (1) through (7) of Subsection A of this section, the person is guilty of a third degree felony and shall be punished by a fine of not more than twenty-five thousand dollars (\$25,000) per violation per day or by imprisonment for not more than three years or both.

C. Any person who knowingly violates any rule adopted and promulgated pursuant to Subsection C of Section 74-4-4 or 74-4-4.4 NMSA 1978 is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five thousand dollars (\$5,000) per violation per day or by imprisonment for a definite term of one year or both. For violations related to storage tanks, "per violation" means per tank.

D. Any person who knowingly transports, treats, stores, disposes of or exports any hazardous waste or used oil in violation of Subsection A of this section and who knows at the time of the violation that the person creates a substantial danger of a substantial adverse environmental impact is guilty of a third degree felony if the violation causes a substantial adverse environmental impact.

E. As used in this section, a "substantial adverse environmental impact" exists when an act or omission of a person causes harm or damage:

(1) to human beings; or

(2) to flora, wildlife, fish or other aquatic life or water fowl; to the habitats of wildlife, fish, other aquatic life, water fowl or livestock; to agricultural crops; to any ground water or surface water; or to the lands or waters of this state where such harm or damage amounts to more than ten thousand dollars (\$10,000).

F. Any person who knowingly transports, treats, stores, disposes of or exports any hazardous waste or used oil in violation of Subsection A of this section and who knows at the time of the violation that the person creates a substantial danger of death or serious bodily injury to another person is guilty of a second degree felony and shall be sentenced to a term of imprisonment not to exceed nine years or a fine not to exceed one hundred thousand dollars (\$100,000), or both. Any person, other than an individual, that knowingly transports, treats, stores, disposes of or exports any hazardous waste or used oil in violation of Subsection A of this section and knows at that time that it places an individual in imminent danger of death or serious bodily injury is guilty of a second degree felony and shall be fined in an amount not to exceed two hundred fifty thousand dollars (\$250,000)."

## **Chapter 267 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 266

Approved April 2, 2007

## **LAWS 2007, CHAPTER 268**

AN ACT

RELATING TO FIREWORKS; DEFINING PERMISSIBLE FIREWORKS; PROVIDING THAT CERTAIN STICK-TYPE ROCKETS ARE NOT PERMISSIBLE FIREWORKS; REMOVING TOY SMOKE DEVICES FROM REGULATION PURSUANT TO THE FIREWORKS LICENSING AND SAFETY ACT; REQUIRING COMPLIANCE WITH NATIONAL SAFETY STANDARDS FOR CERTAIN FIREWORKS AND PYROTECHNIC ARTICLES; ALLOWING FOR A REPLACEMENT PERMIT FEE; AMENDING, REPEALING AND ENACTING SECTIONS OF THE FIREWORKS LICENSING AND SAFETY ACT; DECLARING AN EMERGENCY.

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

## **Chapter 268 Section 1 Laws 2007**

Section 1. Section 60-2C-2 NMSA 1978 (being Laws 1989, Chapter 346, Section 2, as amended) is amended to read:

"60-2C-2. DEFINITIONS.--As used in the Fireworks Licensing and Safety Act:

A. "aerial shell" means a cylindrical or spherical cartridge containing a lift charge, burst charge and effect composition. Upon firing from a reloadable tube, the lift charge is consumed and the cartridge is expelled into the air;

B. "aerial shell kit-reloadable tube" means a package or kit containing a cardboard, high-density polyethylene or equivalent launching tube and not more than twelve small aerial shells. Each aerial shell is limited to a maximum of sixty grams of total chemical composition, including lift charges, and the maximum diameter of each shell shall not exceed one and three-fourths inches;

C. "bosque" means a cottonwood corridor adjacent to a river;

D. "chaser" means a paper or cardboard tube venting out the fuse end of the tube that contains no more than twenty grams of chemical composition and travels along the ground, often producing a whistling effect or other noise; an explosive composition not to exceed fifty milligrams may be included to produce a report;

E. "chemical composition" includes all pyrotechnic and explosive composition contained in a fireworks device, but does not include inert materials such as clay used for plugs or organic matter such as rice hulls used for density control;

F. "cone fountain" means a cardboard or heavy paper cone containing no more than fifty grams of pyrotechnic composition that has the same effect as a cylindrical fountain. When more than one cone is mounted on a common base, total pyrotechnic composition shall not exceed two hundred grams;

G. "crackling device" means a sphere or paper tube that contains no more than twenty grams of pyrotechnic composition that produces a flash of light and a mild, audible crackling effect upon ignition, which effect is not considered to be an explosion. Crackling devices are not subject to the fifty-milligram limit of firecrackers;

H. "cylindrical fountain" means a cylindrical tube containing not more than seventy-five grams of pyrotechnic composition that produces a shower of colored sparks and sometimes a whistling effect or smoke. The device may be provided with a spike for insertion into the ground or a wood or plastic base for placing on the ground or a wood or cardboard handle to be hand held. When more than one tube is mounted on a common base, total pyrotechnic composition shall not exceed two hundred grams;

I. "display distributor" means a person, firm or corporation selling display fireworks;

J. "display fireworks" means devices primarily intended for commercial displays that are designed to produce visible or audible effects by combustion, deflagration or detonation, including salutes containing more than one hundred thirty milligrams of explosive composition; aerial shells containing more than forty grams of chemical composition exclusive of lift charge; and other exhibition display items that exceed the limits for permissible fireworks;

K. "distributor" means a person, firm or corporation selling fireworks to wholesalers and retailers for resale;

L. "explosive composition" means a chemical compound or mixture, the primary purpose of which is to function by explosion, producing an audible effect in a fireworks device;

M. "firecracker" means a small, paper-wrapped or cardboard tube containing no more than fifty milligrams of explosive composition that produces noise and a flash of light; provided that firecrackers used in aerial devices may contain up to one hundred thirty milligrams of explosive composition per report;

N. "fireworks" means devices intended to produce a visible or audible effect by combustion, deflagration or detonation and are categorized as "permissible fireworks" or "display fireworks", but does not include novelties or theatrical pyrotechnics articles;

O. "flitter sparkler" means a narrow paper tube attached to a stick or wire and filled with no more than five grams of pyrotechnic composition that produces color and sparks upon ignition and the paper at one end of the tube is ignited to make the device function;

P. "ground spinner" means a small, rapidly spinning device containing no more than twenty grams of pyrotechnic composition venting out an orifice usually on the side of the tube that when ignited produces a shower of sparks and color. "Ground spinner" is similar in operation to a wheel, but is intended to be placed flat on the ground and ignited;

Q. "helicopter" or "aerial spinner" means a tube containing no more than twenty grams of chemical composition with a propeller or blade attached that spins rapidly as it rises into the air with a visible or audible effect sometimes produced at or near the height of flight;

R. "illuminating torch" means a cylindrical tube containing no more than one hundred grams of pyrotechnic composition that produces a colored flame upon ignition and may be spiked, based or hand held. When more than one tube is mounted on a common base, total pyrotechnic composition shall not exceed two hundred grams;

S. "manufacturer" means a person, firm or corporation engaged in the manufacture of fireworks;

T. "mine" or "shell" means a heavy cardboard or paper tube usually attached to a wooden or plastic base and containing no more than sixty grams of total chemical composition, including lift charges, per tube that individually expels pellets of pressed pyrotechnic composition that burn with bright color in a star effect, or other devices propelled into the air, and that contains components producing reports containing a maximum one hundred thirty milligrams of explosive composition per report. A mine may contain more than one tube, but the tubes must fire in sequence upon ignition of one external fuse, must be a dense-packed collection of mine or shell tubes and the total chemical composition, including lift charges, shall not exceed two hundred grams;

U. "missile-type rocket" means a device similar to a stick-type rocket in size, composition and effect that uses fins rather than a stick for guidance and stability and that contains no more than twenty grams of chemical composition;

V. "multiple tube devices" means a device that contains more than one cardboard tube and the ignition of one external fuse that causes all of the tubes to function in sequence. The tubes are individually attached to a wood or plastic base or are dense-packed and are held together by glue, wire, string or other means that securely hold the tubes together during operation. A maximum total weight of five hundred grams of pyrotechnic composition shall be permitted; provided that the tubes are securely attached to a wood or plastic base and are separated from each other on the base by a distance of at least one-half inch. The connecting fuses on multiple tube devices shall be fused in sequence so that the tubes fire sequentially rather than all at once;

W. "novelties" means devices containing small amounts of pyrotechnic or explosive composition that produce limited visible or audible effects, including party poppers, snappers, toy smoke devices, snakes, glowworms, sparklers or toy caps, and devices intended to produce unique visual or audible effects that contain sixteen milligrams or less of explosive composition and limited amounts of other pyrotechnic composition, including cigarette loads, trick matches, explosive auto alarms and other trick noisemakers;

X. "permissible fireworks" or "consumer fireworks" means fireworks legal for sale to and use in New Mexico by the general public that comply with the latest construction, performance, composition and labeling requirements established by the United States consumer product safety commission and the United States department of transportation;

Y. "pyrotechnic composition" means a chemical mixture that on burning and without explosion produces visible or brilliant displays or bright lights or whistles or motion;

Z. "retailer" means a person, firm or corporation purchasing fireworks for resale to consumers;

AA. "roman candle" means a heavy paper or cardboard tube containing no more than twenty grams of chemical composition that individually expels pellets of pressed pyrotechnic composition that burn with bright color in a star effect;

BB. "specialty retailer" means a person, firm or corporation purchasing permissible fireworks for year-round resale in permanent retail stores whose primary business is tourism;

CC. "stick-type rocket" means a cylindrical tube containing no more than twenty grams of chemical composition with a wooden stick attached for guidance and stability that rises into the air upon ignition and produces a burst of color or sound at or near the height of flight;

DD. "theatrical pyrotechnics articles" means a pyrotechnic device for professional use in the entertainment industry similar to permissible fireworks or consumer fireworks in chemical composition and construction but not intended and labeled for consumer use;

EE. "toy smoke device" means a small plastic or paper item containing no more than one hundred grams of pyrotechnic composition that produces white or colored smoke as the primary effect;

FF. "wheel" means a pyrotechnic device that is made to attach to a post or other surface and that revolves, producing a shower of color and sparks and sometimes a whistling effect, and that may have one or more drivers, each of which contains no more than sixty grams of pyrotechnic composition and the total wheel contains no more than two hundred grams total pyrotechnic composition;

GG. "wholesaler" means a person, firm or corporation purchasing fireworks for resale to retailers; and

HH. "wildlands" means lands owned by the governing body of a county or municipality that are designated for public recreational purposes and that are covered wholly or in part by timber, brush or native grass."

## **Chapter 268 Section 2 Laws 2007**

Section 2. Section 60-2C-4 NMSA 1978 (being Laws 1989, Chapter 346, Section 4, as amended) is amended to read:

"60-2C-4. LICENSE AND PERMIT FEES.--

A. An applicant for a license or permit under the Fireworks Licensing and Safety Act shall pay to the state fire marshal's office the following fees, which shall not be refundable:

- (1) manufacturer license . . . . . \$1,500;
- (2) distributor license. . . . . 2,000;
- (3) wholesaler license . . . . . 1,000;
- (4) display distributor license. . . 1,000;
- (5) specialty retailer license . . . 750;
- (6) retailer permit. . . . . 100; or
- (7) replacement permit . . . . . 20.

B. All licenses and permits shall be issued for one year beginning on February 1 of each year. All licenses and permits shall be issued within thirty days from the date of receipt of application, except that no application shall be processed during any holiday selling period in which permissible fireworks may be sold.

C. Licenses issued pursuant to provisions of the Fireworks Licensing and Safety Act shall not be restricted in number or limited to any person without cause. Municipalities and counties may require licenses or permits and reasonable fees, not to exceed twenty-five dollars (\$25.00), for the sale of fireworks.

D. Permit and license fees paid to the state fire marshal's office shall be deposited in the fire protection fund to be used by the state fire marshal to enforce and carry out the provisions and purposes of the Fireworks Licensing and Safety Act."

### **Chapter 268 Section 3 Laws 2007**

Section 3. Section 60-2C-7 NMSA 1978 (being Laws 1989, Chapter 346, Section 7, as amended) is amended to read:

"60-2C-7. PERMISSIBLE FIREWORKS.--

A. Permissible fireworks are:

- (1) ground and hand-held sparkling devices:
  - (a) cone fountains;
  - (b) crackling devices;

- (c) cylindrical fountains;
- (d) flitter sparklers;
- (e) ground spinners;
- (f) illuminating torches; and
- (g) wheels;

(2) aerial devices:

- (a) aerial shell kit-reloadable tubes;
- (b) aerial spinners;
- (c) helicopters;
- (d) mines;
- (e) missile-type rockets;
- (f) multiple tube devices;
- (g) roman candles;
- (h) shells; and
- (i) stick-type rockets, except as provided in Subsection B of this

section; and

(3) ground audible devices:

- (a) chasers; and
- (b) firecrackers.

B. The following types of fireworks are not permissible fireworks:

(1) stick-type rockets having a tube less than five-eighths inch outside diameter and less than three and one-half inches in length; and

(2) fireworks intended for sale to the public that produce an audible effect, other than a whistle, by a charge of more than one hundred thirty milligrams of explosive composition per report.

C. A municipality or county shall not by ordinance regulate and prohibit the sale or use of any permissible firework except aerial devices and ground audible devices."

## **Chapter 268 Section 4 Laws 2007**

Section 4. Section 60-2C-8 NMSA 1978 (being Laws 1989, Chapter 346, Section 8, as amended) is amended to read:

### **"60-2C-8. RETAIL SALES OR STORAGE OF FIREWORKS--REGULATED ACTIVITIES.--**

A. Fireworks may not be sold at retail without a retail permit. The permit shall be at the location where the retail sale takes place.

B. All places where fireworks are stored, sold or displayed shall be in compliance with the code of safety standards published by the national fire protection association for the manufacture, transportation, storage and retail sales of fireworks and pyrotechnics articles.

C. It is unlawful to offer for sale or to sell fireworks to children under the age of sixteen years or to an intoxicated person.

D. At all places where fireworks are stored, sold or displayed, the words "NO SMOKING" shall be posted in letters at least four inches in height. Smoking, open flames and any ignition source are prohibited within twenty-five feet of fireworks stock.

E. Fireworks shall not be stored, kept, sold or discharged within fifty feet of a gasoline pump or gasoline bulk station or a building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints and oils are handled in sealed containers only.

F. All fireworks permittees and licensees shall keep and maintain upon the premises a fire extinguisher bearing an underwriters laboratories incorporated rated capacity of at least five-pound ABC per five hundred square feet of space used for fireworks sales or storage.

G. Sales clerks and ancillary personnel employed or volunteering at temporary retail locations where fireworks are sold shall be at least sixteen years of age. A sales clerk shall be on duty to serve consumers at the time of purchase or delivery. Permissible fireworks may be offered for sale only at state-permitted or state-licensed retail locations.

H. Fireworks shall not be discharged within one hundred fifty feet of a fireworks retail sales location.

I. Fireworks shall not be sold or used on state forest land, wildlands or a bosque.

J. A person shall not ignite fireworks within a motor vehicle or throw fireworks from a motor vehicle, nor shall a person place or throw ignited fireworks into or at a motor vehicle or at or near a person or group of people.

K. Fireworks devices that are readily accessible to handling by consumers or purchasers in a retail sales location shall have their exposed fuses protected in a manner to protect against accidental ignition of an item by a spark, cigarette ash or other ignition source. If the fuse is a thread-wrapped safety fuse that has been coated with a nonflammable coating, only the outside end of the safety fuse shall be covered. If the fuse is not a safety fuse, the entire fuse shall be covered.

L. Permissible fireworks may be sold at retail between June 20 and July 6 of each year, six days preceding and including new year's day, three days preceding and including Chinese new year, the sixteenth of September and cinco de Mayo of each year, except that permissible fireworks may be sold all year in permanent retail stores whose primary business is tourism."

## **Chapter 268 Section 5 Laws 2007**

Section 5. A new section of the Fireworks Licensing and Safety Act is enacted to read:

"THEATRICAL PYROTECHNICS ARTICLES--COMPLIANCE WITH NATIONAL FIRE PROTECTION ASSOCIATION STANDARDS REQUIRED.--All places where theatrical pyrotechnics articles are manufactured, stored, sold or displayed shall be in compliance with the code of safety standards published by the national fire protection association for the use of pyrotechnics before a proximate audience."

## **Chapter 268 Section 6 Laws 2007**

Section 6. REPEAL.--Section 60-2C-2.1 NMSA 1978 (being Laws 1997, Chapter 17, Section 8) is repealed.

## **Chapter 268 Section 7 Laws 2007**

Section 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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Senate Bill 267, as amended

with emergency clause

Approved April 2, 2007

# **LAWS 2007, CHAPTER 269**

## **AN ACT**

RELATING TO CULTURAL AFFAIRS; CHANGING THE NAME OF THE MUSEUM OF FINE ART DIVISION AND THE MUSEUM SERVICES DIVISION OF THE CULTURAL AFFAIRS DEPARTMENT; PROVIDING FOR THE TRANSFER OF FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES.

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

### **Chapter 269 Section 1 Laws 2007**

Section 1. Section 9-4A-1 NMSA 1978 (being Laws 2004, Chapter 25, Section 1) is amended to read:

"9-4A-1. SHORT TITLE.--Chapter 9, Article 4A NMSA 1978 may be cited as the "Cultural Affairs Department Act"."

### **Chapter 269 Section 2 Laws 2007**

Section 2. Section 9-4A-4 NMSA 1978 (being Laws 2004, Chapter 25, Section 4) is amended to read:

"9-4A-4. DEPARTMENT CREATED.--The "cultural affairs department" is created in the executive branch. The department is a cabinet department and includes the following divisions:

- A. the administrative services division;
- B. the arts division;
- C. the historic preservation division;
- D. the library division;
- E. the Hispanic cultural division;
- F. the farm and ranch heritage museum division;
- G. the natural history and science museum division;
- H. the museum of space history division;

I. the museum resources division; and

J. the following divisions that make up the museum of New Mexico:

(1) the palace of the governors state history museum division;

(2) the New Mexico museum of art division;

(3) the museum of Indian arts and culture division;

(4) the museum of international folk art division;

(5) the archaeological services division; and

(6) the state monuments division."

### **Chapter 269 Section 3 Laws 2007**

Section 3. Section 9-4A-12 NMSA 1978 (being Laws 2004, Chapter 25, Section 12) is amended to read:

"9-4A-12. MUSEUM RESOURCES DIVISION.--The "museum resources division" is created within the department. The museum resources division shall provide support in exhibitions, statewide education services, publishing and other services requested by the museums or the secretary."

### **Chapter 269 Section 4 Laws 2007**

Section 4. Section 9-4A-13 NMSA 1978 (being Laws 2004, Chapter 25, Section 13) is amended to read:

"9-4A-13. NEW MEXICO MUSEUM OF ART DIVISION CREATED--LOCATION--BOARD OF REGENTS.--

A. The "New Mexico museum of art division" is created in the department. The New Mexico museum of art located in Santa Fe shall be operated as a division of the department under the imprimatur of the museum of New Mexico. The museum of New Mexico board of regents shall exercise trusteeship over the New Mexico museum of art.

B. The director of the division shall meet the following minimum qualifications:

(1) hold a bachelor's or higher degree in a discipline related to the function of the division; and

(2) have significant experience in the management and operation of an organization similar to the division.

C. The director shall be appointed by the secretary from a list of no less than three names provided by the museum of New Mexico board of regents."

## **Chapter 269 Section 5 Laws 2007**

Section 5. Section 18-3-1 NMSA 1978 (being Laws 1975, Chapter 264, Section 1, as amended) is amended to read:

"18-3-1. MUSEUM OF NEW MEXICO ESTABLISHED--LOCATION--PROPERTY.--

A. The "museum of New Mexico" is established. All properties, real or personal, now held for museum purposes and all properties, real or personal, that may be acquired for museum purposes at any time in the future shall be under

the control of the museum board of regents of the museum of New Mexico.

B. The museum of New Mexico consists of:

- (1) the palace of the governors state history museum;
- (2) the New Mexico museum of art;
- (3) the museum of Indian arts and culture;
- (4) the museum of international folk art;
- (5) archaeological services; and
- (6) the state monuments:
  - (a) Coronado state monument;
  - (b) Jemez state monument;
  - (c) Fort Selden state monument;
  - (d) Fort Sumner state monument;
  - (e) Lincoln state monument;
  - (f) El Camino Real international heritage center; and
  - (g) the Taylor Reynolds Barela Mesilla state monument."

## **Chapter 269 Section 6 Laws 2007**

Section 6. TEMPORARY PROVISION--TRANSFERS.--On the effective date of this act:

A. all functions, personnel, money, appropriations, records, files, furniture, equipment and other property of the museum of fine art or the museum of fine art division of the cultural affairs department shall be transferred to the New Mexico museum of art or the New Mexico museum of art division of that department, respectively;

B. all functions, personnel, money, appropriations, records, files, furniture, equipment and other property of the museum services division of the cultural affairs department shall be transferred to the museum resources division of that department;

C. all contractual obligations of the museum of fine art or museum of fine art division of the cultural affairs department shall be binding on the New Mexico museum of art or the New Mexico museum of art division of that department, respectively;

D. all contractual obligations of the museum services division of the cultural affairs department shall be binding on the museum resources division of that department;

E. all statutory references to the museum of fine art or museum of fine art division of the cultural affairs department shall be deemed to be references to the New Mexico museum of art or the New Mexico museum of art division of that department, respectively; and

F. all statutory references to the museum services division of the cultural affairs department shall be deemed to be references to the museum resources division of that department.

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Senate Bill 276

Approved April 2, 2007

## **LAWS 2007, CHAPTER 270**

AN ACT

RELATING TO ZONING REGULATIONS; ALLOWING FOR MULTIGENERATIONAL HOUSING WITHIN A SINGLE-FAMILY ZONING DISTRICT; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 1995.

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

## Chapter 270 Section 1 Laws 2007

Section 1. Section 3-21-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-20-1, as amended by Laws 1995, Chapter 170, Section 4 and also by Laws 1995, Chapter 211, Section 3) is amended to read:

### "3-21-1. ZONING--AUTHORITY OF COUNTY OR MUNICIPALITY.--

A. For the purpose of promoting health, safety, morals or the general welfare, a county or municipality is a zoning authority and may regulate and restrict within its jurisdiction the:

- (1) height, number of stories and size of buildings and other structures;
- (2) percentage of a lot that may be occupied;
- (3) size of yards, courts and other open space;
- (4) density of population; and
- (5) location and use of buildings, structures and land for trade, industry, residence or other purposes.

B. The county or municipal zoning authority may:

- (1) divide the territory under its jurisdiction into districts of such number, shape, area and form as is necessary to carry out the purposes of Sections 3-21-1 through 3-21-14 NMSA 1978; and
- (2) regulate or restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land in each district. All such regulations shall be uniform for each class or kind of buildings within each district, but regulation in one district may differ from regulation in another district.

C. All state-licensed or state-operated community residences for the mentally ill or developmentally disabled serving ten or fewer persons may be considered a residential use of property for purposes of zoning and may be permitted use in all districts in which residential uses are permitted generally, including particularly residential zones for single-family dwellings.

D. A board of county commissioners of the county in which the greatest portion of the territory of the petitioning village, community, neighborhood or district lies may declare by ordinance that a village, community, neighborhood or district is a "traditional historic community" upon petition by twenty-five percent or more of the registered qualified electors of the territory within the village, community, neighborhood

or district requesting the designation. The number of registered qualified electors shall be based on county records as of the date of the last general election.

E. Any village, community, neighborhood or district that is declared a traditional historic community shall be excluded from the extraterritorial zone and extraterritorial zoning authority of any municipality whose extraterritorial zoning authority extends to include all or a portion of the traditional historic community and shall be subject to the zoning jurisdiction of the county in which the greatest portion of the traditional historic community lies.

F. Zoning authorities, including zoning authorities of home rule municipalities, shall accommodate multigenerational housing by creating a mechanism to allow up to two kitchens within a single-family zoning district, such as conditional use permits.

G. For the purpose of this section, "multigenerational" means any number of persons related by blood, common ancestry, marriage, guardianship or adoption."

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Senate Public Affairs Committee

Substitute for Senate Bill 285

Approved April 2, 2007

## **LAWS 2007, CHAPTER 271**

### **AN ACT**

RELATING TO GAMING REGULATION; REMOVING THE SALARY CAP ON THE SALARY OF THE EXECUTIVE DIRECTOR OF THE GAMING CONTROL BOARD.

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

### **Chapter 271 Section 1 Laws 2007**

Section 1. Section 60-2E-9 NMSA 1978 (being Laws 1997, Chapter 190, Section 11) is amended to read:

"60-2E-9. EXECUTIVE DIRECTOR--EMPLOYMENT--QUALIFICATIONS.--

A. The executive director shall be employed by, report directly to and serve at the pleasure of the board.

B. The executive director shall have had at least five years of responsible supervisory administrative experience in a governmental gaming regulatory agency.

C. The executive director shall receive an annual salary to be set by the board but not to exceed the governor of New Mexico's salary."

## **Chapter 271 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 295, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 272**

AN ACT

RELATING TO COURTS; ESTABLISHING A MAXIMUM BOND AMOUNT ON SUPERSEDEAS BONDS REQUIRED OF SIGNATORIES OF THE TOBACCO MASTER SETTLEMENT AGREEMENT.

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

## **Chapter 272 Section 1 Laws 2007**

Section 1. Section 39-3-22 NMSA 1978 (being Laws 1917, Chapter 43, Section 17, as amended) is amended to read:

"39-3-22. SUPERSEDEAS AND STAY IN CIVIL ACTIONS.--

A. There shall be no supersedeas or stay of execution upon any final judgment or decision of the district court in any civil action in which an appeal has been taken or a writ of error sued out unless the appellant or plaintiff in error, or some responsible person for the appellant or plaintiff in error, within sixty days from the entry of the judgment or decision, executes a bond to the adverse party in double the amount of the judgment complained of, with sufficient sureties, and approved by the clerk of the district court in case of appeals or by the clerk of the supreme court in case of writ of error. The bond shall be conditioned for the payment of the judgment and all costs that may be finally adjudged against the appellant or plaintiff in error if the appeal or writ of error is dismissed or the judgment or decision of the district court is affirmed. The district court, for good cause shown, may grant the appellant not to exceed thirty days' additional time

within which to file the bond, and a like extension of time may be granted by the supreme court in cases of writs of error upon a like showing.

B. If the decision appealed from, or from which a writ of error is sued out, is for a recovery other than a fixed amount of money, the amount of the bond, if any, shall be fixed by the district court if an appeal is taken or, in case of a writ of error, by the chief justice or any justice of the supreme court, conditioned that the appellant or plaintiff in error shall prosecute the appeal or writ of error with diligence and that if the decision of the district court is affirmed or the appeal or writ of error is dismissed, the appellant or plaintiff in error will comply with the judgment of the district court and pay all damages and costs finally adjudged against the appellant or plaintiff in error in the district court and in the supreme court or court of appeals on the appeal or writ of error, including any legal damages caused by taking the appeal, whether the damages are assessed upon motion in the cause or in a civil action on the bond.

C. In any civil action involving a signatory, a successor of a signatory or any affiliate of a signatory to the master settlement agreement, as defined in Subsection E of Section 6-4-12 NMSA 1978, the supersedeas bond required of all appellants collectively in order to stay the execution of a judgment during the entire course of appellate review shall not exceed one hundred million dollars (\$100,000,000), regardless of the amount of the judgment.

D. Upon approval of a bond provided for in this section and upon filing the bond, in case of appeal with the clerk of the district court and in case of writ of error with the clerk of the supreme court, there shall be a stay of proceedings in the action until the appeal or writ of error is finally determined.

E. In all cases where an appeal has been taken or a writ of error sued out against any interlocutory judgment, order or decision of the district court, from any final order affecting a substantial right made after entry of a final judgment or from any proceeding or conviction of civil contempt, supersedeas may be granted under the provisions of this section, but the bond shall be filed within thirty days from the entry of such judgment, order, decision or conviction and no extension of time for the filing of the bond shall be granted in excess of ten days.

F. Any supersedeas granted under this section in any matter appealed to the supreme court or court of appeals shall automatically continue in effect pending any action or further review that may be taken in the supreme court or court of appeals."

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Senate Bill 335, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 273**

## AN ACT

RELATING TO TAXATION; PROVIDING FOR THE USE OF OTHER JUSTIFIABLE FACTORS, INCLUDING ECONOMIC AND FUNCTIONAL OBSOLESCENCE, TO VALUE PROPERTY USED IN THE PROCESSING, GATHERING, TRANSMISSION OR DISTRIBUTION OF OIL, GAS, CARBON DIOXIDE OR LIQUID HYDROCARBONS.

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

### **Chapter 273 Section 1 Laws 2007**

Section 1. Section 7-36-27 NMSA 1978 (being Laws 1975, Chapter 165, Section 8, as amended) is amended to read:

"7-36-27. SPECIAL METHOD OF VALUATION--PIPELINES, TANKS, SALES METERS AND PLANTS USED IN THE PROCESSING, GATHERING, TRANSMISSION, STORAGE, MEASUREMENT OR DISTRIBUTION OF OIL, NATURAL GAS, CARBON DIOXIDE OR LIQUID HYDROCARBONS.--

A. All pipelines, tanks, sales meters and plants used in the processing, gathering, transmission, storage, measurement or distribution of oil, natural gas, carbon dioxide or liquid hydrocarbons 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) "construction work in progress" means the total of the balances of work orders for pipelines, plants, large industrial sales meters and tanks, in the process of construction on the last day of the preceding calendar year, exclusive of land and land rights and equipment, machinery or devices that are used or are available for use to construct pipelines, plants, large industrial sales meters and tanks but that are not incorporated into the pipelines, plants, large industrial sales meters or tanks;

(2) "depreciation" means straight line depreciation over the useful life of the item of property;

(3) "direct customer distribution pipeline" means a low or intermediate pressure distribution system pipeline of four inches or smaller diameter situated in urban areas;

(4) "economic obsolescence" means, with respect to valuation for property taxation purposes, loss in value of a property caused by unfavorable economic influences or factors outside of the property; "economic obsolescence" is a loss in value in addition to a loss in value attributable to physical depreciation;

(5) "functional obsolescence" means, with respect to valuation for property taxation purposes, loss in value of a property caused by functional inadequacies or deficiencies caused by factors within the property; "functional obsolescence" is a loss in value in addition to a loss in value attributable to physical depreciation;

(6) "large industrial sales meter" means a sales meter having an installed tangible property cost in excess of two thousand five hundred dollars (\$2,500);

(7) "other justifiable factors" includes, but is not limited to, functional obsolescence and economic obsolescence;

(8) "pipeline" means all pipe, appurtenances and devices used in systems for gathering, transmission or distribution, but excludes sales meters, a pipeline operated exclusively for and constituting a part of a plant and a direct customer distribution pipeline;

(9) "plant" means any refinery, gasoline plant, extraction plant, purification plant, compressor or pumping station or similar plant, including all structures, equipment, pipes and other related facilities, excluding residential housing, office buildings and warehouses;

(10) "sales meter" means the meter, regulator and all appurtenances and devices used for measuring sales to customers and includes the service pipe to the customer's property line from the point of connection with the pipeline;

(11) "schedule value" means a fixed value of an individual property unit within a mass of similar or like units established by determining the total tangible property cost of a substantial sample of such property and deducting therefrom an average related accumulated provision for depreciation and allocating a proportionate part of the remainder to individual taxable property units;

(12) "tangible property cost" means the actual cost of acquisition or construction of property, excluding construction work in progress, including additions, retirements, adjustments and transfers, but without deduction of related accumulated provision for depreciation, amortization or other purposes and excluding any amount attributable to oil or gas reserves dedicated to such item of property; and

(13) "tank" means any storage tank or container, other than a natural reservoir, for storage that is not a component part of a plant.

C. Sales meters, other than large industrial sales meters, shall be valued as follows:

(1) the department may periodically determine the average tangible property cost of a substantial sample of sales meters in general use in the state;

(2) such average tangible property cost shall then be reduced by the average related accumulated provision for depreciation applicable to the sample of sales meters; and

(3) from the determinations pursuant to Paragraphs (1) and (2) of this subsection, a schedule of value for sales meters for property taxation purposes shall be determined and set forth in a rule adopted by the department.

D. Pipelines, direct customer distribution pipelines, large industrial sales meters, tanks and plants shall be valued as follows:

(1) the valuation authority shall first establish the tangible property cost of each item of property;

(2) from such tangible property cost shall be deducted the related accumulated provision for depreciation and any other justifiable factors that further affect the tangible property value of each item of property; and

(3) notwithstanding the determination of value for property taxation purposes in Paragraphs (1) and (2) of this subsection, the value for property taxation purposes of each item of property valued under this subsection shall not be less than twenty percent of the tangible property cost of such item of property.

E. Construction work in progress shall be valued at fifty percent of the amount expended and entered upon the accounting records of the taxpayer as of December 31 of the preceding year as construction work in progress.

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. A reduction in value asserted by a taxpayer as attributable to economic obsolescence or functional obsolescence shall contain an obsolescence factor along with a brief statement of the facts that support the reduction, together with supporting documentation. The documentation may include items such as monthly throughput volumes from the prior year; comparisons to a documented industry standard; comparisons to a close competitor; and an engineer's or appraiser's valuation. The department may adopt rules that include other types of objective evidence of functional obsolescence or economic obsolescence.

H. If the department determines that a taxpayer has not established, based on the brief statement of facts and the supporting documentation provided, that the reduction for functional obsolescence or economic obsolescence is in accordance with the law or rules adopted by the department, the department shall notify the taxpayer of the department's determination in writing setting forth the reasons for its determination and specifying the supporting information that the department requires. The department

shall provide the notice by April 1 or thirty days after the return is filed but no later than April 15 of the tax year. If the taxpayer does not file the report by March 15 of the property tax year, the department shall not be required to furnish a timely notice of deficiency by April 15 of the property tax year. In the case of properties regulated by the federal energy regulatory commission, the notice of deficiency shall be provided to the taxpayer within fifteen days after the filing of the report and the taxpayer shall then have ten days within which to correct the deficiency.

I. The department shall adopt rules to implement the provisions of this section."

## **Chapter 273 Section 2 Laws 2007**

Section 2. Section 7-38-8 NMSA 1978 (being Laws 1973, Chapter 258, Section 48, as amended) is amended to read:

"7-38-8. REPORTING OF PROPERTY FOR VALUATION--PENALTIES FOR FAILURE TO REPORT.--

A. All property subject to valuation for property taxation purposes by the department shall be reported annually to the department. The report required by this subsection shall be made by the owner of the property or such other person as may be authorized by rules of the department. The report shall be in a form and contain the information required by rules of the department. It shall be made not later than the last day of February in the tax year in which the property is subject to valuation. Claims of economic obsolescence or functional obsolescence on properties not regulated by the federal government shall be made at the time the annual report is filed; however, the department shall accept supplements to the annual report containing claims of economic obsolescence or functional obsolescence on properties regulated by the federal energy regulatory commission or its successor agency at the time the annual commission report becomes available, but no later than April 15 of the tax year or at a later time allowed by an extension granted by the department. In the case of the failure or refusal to file the report required under this subsection, the department shall determine the value of the property subject to valuation from the best information available.

B. Except as provided in Subsection D of this section, all property subject to valuation for property taxation purposes by the county assessor shall be reported as follows:

(1) property valued in the 1974 tax year by the county assessor need not be reported for any subsequent tax year unless required to be reported under Paragraph (3) of this subsection;

(2) property not valued in the 1974 tax year by the county assessor but that becomes subject to valuation by the county assessor in any subsequent tax year shall be reported to the county assessor not later than the last day of February of the

tax year in which it becomes subject to valuation, but such property need not be reported for any year subsequent to the year in which initially reported unless required to be reported under Paragraph (3) of this subsection;

(3) property once valued by a county assessor in a tax year, but which is not valued for a year subsequent to the year of initial valuation because it is not subject to valuation for that subsequent year by the county assessor, shall be reported to the county assessor not later than the last day of February in a tax year in which it again becomes subject to valuation by the county assessor; and

(4) reports required under Paragraphs (2) and (3) of this subsection shall be in a form and contain the information required by rules of the department.

C. Not later than the last day of February of each tax year, every owner of real property who made, or caused to be made, in the preceding calendar year improvements costing more than ten thousand dollars (\$10,000) to that real property shall report to the county assessor the property improved, the improvements made, the cost of the improvements and such other information as the department may require.

D. Manufactured homes, livestock and land used for agricultural purposes shall be reported for valuation for property taxation purposes to the county assessor at the times and in the manner prescribed under Sections 7-36-26, 7-36-21 and 7-36-20 NMSA 1978 and rules promulgated by the department.

E. Property subject to valuation by the county assessor for property taxation purposes and improvements to such property that are required to be reported under Subsection C of this section shall be reported to the county assessor of the county in which the property is required to be valued under Section 7-36-14 NMSA 1978. Reports shall be made either by the owner of the property, the owner's authorized agent or any person having control or management of the property and shall be in a form and contain the information required by rules of the department.

F. Reports required by this section shall be made by the declarant under oath, and the secretary, employees of the department, the assessor and the assessor's employees are empowered to administer oaths for this purpose.

G. A person who intentionally refuses to make a report required under the provisions of Subsection A, B or C of this section or who knowingly makes a false statement in a report required under the provisions of Subsection A, B or C of this section is guilty of a misdemeanor and upon conviction shall be punished by the imposition of a fine of not more than one thousand dollars (\$1,000).

H. A person who fails to make a report required under the provisions of Subsection A or B of this section is liable for a civil penalty in an amount equal to five percent of the property taxes ultimately determined to be due on the property for the tax year or years for which the person failed to make the required report.

I. A person who intentionally refuses to make a report required under the provisions of Subsection A or B of this section with the intent to evade any tax or who fails to make a report required under the provisions of Subsection A or B of this section with the intent to evade any tax is liable for a civil penalty in an amount equal to twenty-five percent of the property taxes ultimately determined to be due on the property for the tax year or years for which the person refused or failed to make the required report.

J. A person who is required to make a report under the provisions of Subsection C of this section and who fails to do so is personally liable for a civil penalty in an amount equal to the greater of twenty-five dollars (\$25.00) or twenty-five percent of the difference between the property taxes ultimately determined to be due and the property taxes originally paid for the tax year or years for which the person failed to make the required report. This penalty shall not be considered a delinquent property tax, and the provisions of the Property Tax Code for the enforcement and collection of delinquent property taxes through the sale of the property do not apply. However, the county treasurer may use all other methods provided by law to collect the property tax or penalty due. Notwithstanding any other provision of the Property Tax Code, amounts collected pursuant to the penalty provided by this subsection shall be distributed among jurisdictions imposing tax on the property in the same proportion as the amount of tax ultimately determined to be due for the jurisdiction bears to the total due for all such jurisdictions.

K. The civil penalties authorized under Subsections H and I of this section shall be imposed and collected at the time and in the manner that the tax is imposed and collected. In order to assist in the imposition and collection of the penalties, the persons having responsibility for determining the value of the property shall make an entry in the valuation records indicating the liability for any penalties due under this section.

L. For the purposes of this section:

(1) "improvement" means the construction of any new structure permanently affixed to the land or the repair, rehabilitation or alteration of an existing structure permanently affixed to the land that, for property used for any commercial purpose, is required or allowed to be capitalized under the Internal Revenue Code and, for other properties, any similar construction, repair, rehabilitation or alteration; and

(2) "owner of real property" includes every owner of improvements who does not own the land upon which the improvements are made."

## **Chapter 273 Section 3 Laws 2007**

Section 3. APPLICABILITY.--The provisions of this act apply to property tax years beginning on or after January 1, 2008.

## **Chapter 273 Section 4 Laws 2007**

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 340, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 274**

AN ACT

RELATING TO ELECTIONS; REQUIRING THAT A CANDIDATE WHO SEEKS TO WITHDRAW FROM CANDIDACY FILE A SIGNED AND NOTARIZED STATEMENT OF WITHDRAWAL WITH THE SECRETARY OF STATE.

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

### **Chapter 274 Section 1 Laws 2007**

Section 1. Section 1-8-9 NMSA 1978 (being Laws 1975, Chapter 255, Section 104) is amended to read:

"1-8-9. GENERAL ELECTION--WITHDRAWAL OF CANDIDATES.--No candidate shall withdraw from a general election unless the candidate withdraws at least sixty-three days prior to that election and the candidate files a signed and notarized statement of withdrawal with the secretary of state."

### **Chapter 274 Section 2 Laws 2007**

Section 2. Section 1-8-44 NMSA 1978 (being Laws 1969, Chapter 240, Section 182, as amended) is amended to read:

"1-8-44. PRIMARY ELECTION LAW--WITHDRAWAL OF CANDIDATES.--A candidate seeking to withdraw from a primary election shall withdraw no later than the first Tuesday in April before that primary election by filing a signed and notarized statement of withdrawal with the secretary of state."

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Senate Bill 342

Approved April 2, 2007

# **LAWS 2007, CHAPTER 275**

## **AN ACT**

RELATING TO TAXATION; EXPANDING THE KINDS OF TAXES THAT MAY BE REPORTED ON AN ESTIMATED BASIS; INCLUDING REPORTING OF HELIUM AND NONHYDROCARBON GAS ON OIL AND GAS TAX RETURNS FOR REFUND PURPOSES; EXCLUDING HELIUM AND NONHYDROCARBON GAS AS NATURAL RESOURCES IN THE RESOURCES EXCISE TAX ACT.

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

### **Chapter 275 Section 1 Laws 2007**

Section 1. Section 7-1-10 NMSA 1978 (being Laws 1965, Chapter 248, Section 15, as amended) is amended to read:

"7-1-10. RECORDS REQUIRED BY STATUTE--TAXPAYER RECORDS--ACCOUNTING METHODS--REPORTING METHODS--INFORMATION RETURNS.--

A. Every person required by the provisions of any statute administered by the department to keep records and documents and every taxpayer shall maintain books of account or other records in a manner that will permit the accurate computation of state taxes or provide information required by the statute under which the person is required to keep records.

B. Methods of accounting shall be consistent for the same business. A taxpayer engaged in more than one business may use a different method of accounting for each business.

C. Prior to changing the method of accounting in keeping books and records for tax purposes, a taxpayer shall first secure the consent of the secretary or the secretary's delegate. If consent is not secured, the department upon audit may require the taxpayer to compute the amount of tax due on the basis of the accounting method earlier used.

D. Prior to changing the method of reporting taxes, other than for changes required by law, a taxpayer shall first secure the consent of the secretary or the secretary's delegate. Consent shall be granted or withheld pursuant to the provisions of Section 7-4-19 NMSA 1978. If consent is not secured, the secretary or the secretary's delegate upon audit may require the taxpayer to compute the amount of tax due on the basis of the reporting method earlier used.

E. Upon the written application of a taxpayer and at the sole discretion of the secretary or the secretary's delegate, the secretary or the secretary's delegate may enter into an agreement with a taxpayer allowing the taxpayer to report values, gross receipts, deductions or the value of property on an estimated basis for gross receipts

and compensating tax, oil and gas severance tax, oil and gas conservation tax, oil and gas emergency school tax and oil and gas ad valorem production tax purposes for a limited period of time not to exceed four years. As used in this section, "estimated basis" means a methodology that is reasonably expected to approximate the tax that will be due over the period of the agreement using summary rather than detail data or alternate valuation applications or methods, provided that:

(1) nothing in this section shall be construed to require the secretary or the secretary's delegate to enter into such an agreement; and

(2) the agreement must:

(a) specify the receipts, deductions or values to be reported on an estimated basis and the methodology to be followed by the taxpayer in making the estimates;

(b) state the term of the agreement and the procedures for terminating the agreement prior to its expiration;

(c) be signed by the taxpayer or the taxpayer's representative and the secretary or the secretary's delegate; and

(d) contain a declaration by the taxpayer or the taxpayer's representative that all statements of fact made by the taxpayer or the taxpayer's representative in the taxpayer's application and the agreement are true and correct as to every material matter.

F. The secretary may, by regulation, require any person doing business in the state to submit to the department information reports that are considered reasonable and necessary for the administration of any provision of law to which the Tax Administration Act applies."

## **Chapter 275 Section 2 Laws 2007**

Section 2. Section 7-1-26 NMSA 1978 (being Laws 1965, Chapter 248, Section 28, as amended) is amended to read:

"7-1-26. CLAIM FOR REFUND.--

A. Any person who believes that an amount of tax has been paid by or withheld from that person in excess of that for which the person was liable, who has been denied any credit or rebate claimed or who claims a prior right to property in the possession of the department pursuant to a levy made under authority of Sections 7-1-31 through 7-1-34 NMSA 1978 may claim a refund by directing to the secretary, within the time limited by the provisions of Subsections D, E and F of this section, a written claim for refund. Except as provided in Subsection J of this section, a refund claim shall include the

taxpayer's name, address and identification number, the type of tax for which a refund is being claimed, the sum of money being claimed, the period for which overpayment was made and the basis for the refund. As used in this subsection, "basis for the refund" means a brief statement of the facts and the law on which the claim is based.

B. The secretary or the secretary's delegate may allow the claim in whole or in part or may deny the claim.

(1) If the claim is denied in whole or in part in writing, no claim may be refiled with respect to that which was denied but the person, within ninety days after either the mailing or delivery of the denial of all or any part of the claim, may elect to pursue one, but not more than one, of the remedies in Subsection C of this section.

(2) If the department has neither granted nor denied any portion of a claim for refund within one hundred twenty days of the date the claim was mailed or delivered to the department, the person may refile it within the time limits set forth in Subsection D of this section or may within ninety days elect to pursue one, but only one, of the remedies in Subsection C of this section. After the expiration of the two hundred ten days from the date the claim was mailed or delivered to the department, the department may not approve or disapprove the claim unless the person has pursued one of the remedies under Subsection C of this section.

C. A person may elect to pursue one, but only one, of the remedies in Paragraphs (1) and (2) of this subsection. In any case, if a person does timely pursue more than one remedy, the person shall be deemed to have elected the first remedy invoked. The remedies are as follows:

(1) the person may direct to the secretary a written protest against the denial of, or failure to either allow or deny the claim or portion thereof, which shall be set for hearing by a hearing officer designated by the secretary promptly after the receipt of the protest in accordance with the provisions of Section 7-1-24 NMSA 1978, and pursue the remedies of appeal from decisions adverse to the protestant as provided in Section 7-1-25 NMSA 1978; or

(2) the person may commence a civil action in the district court for Santa Fe county by filing a complaint setting forth the circumstance of the claimed overpayment, alleging that on account thereof the state is indebted to the plaintiff in the amount stated, together with any interest allowable, demanding the refund to the plaintiff of that amount and reciting the facts of the claim for refund. The plaintiff or the secretary may appeal from any final decision or order of the district court to the court of appeals.

D. Except as otherwise provided in Subsections E and F of this section, no credit or refund of any amount may be allowed or made to any person unless as the result of a claim made by that person as provided in this section:

(1) within three years of the end of the calendar year in which:

(a) the payment was originally due or the overpayment resulted from an assessment by the department pursuant to Section 7-1-17 NMSA 1978, whichever is later;

(b) the final determination of value occurs with respect to any overpayment that resulted from a disapproval by any agency of the United States or the state of New Mexico or any court of increase in value of a product subject to taxation under the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act or the Natural Gas Processors Tax Act; or

(c) property was levied upon pursuant to the provisions of the Tax Administration Act;

(2) when an amount of a claim for credit under the provisions of the Investment Credit Act, Laboratory Partnership with Small Business Tax Credit Act or Technology Jobs Tax Credit Act or for the rural job tax credit pursuant to Sections 7-2E-1 and 7-2E-2 NMSA 1978 or similar credit has been denied, the taxpayer may claim a refund of the credit no later than one year after the date of the denial;

(3) when a taxpayer under audit by the department has signed a waiver of the limitation on assessments on or after July 1, 1993 pursuant to Subsection F of Section 7-1-18 NMSA 1978, the taxpayer may file a claim for refund of the same tax paid for the same period for which the waiver was given, until a date one year after the later of the date of the mailing of an assessment issued pursuant to the audit, the date of the mailing of final audit findings to the taxpayer or the date a proceeding is begun in court by the department with respect to the same tax and the same period;

(4) if the payment of an amount of tax was not made within three years of the end of the calendar year in which the original due date of the tax or date of the assessment of the department occurred, a claim for refund of that amount of tax can be made within one year of the date on which the tax was paid; or

(5) when a taxpayer has been assessed a tax on or after July 1, 1993 under Subsection B, C or D of Section 7-1-18 NMSA 1978 and when the assessment applies to a period ending at least three years prior to the beginning of the year in which the assessment was made, the taxpayer may claim a refund for the same tax for the period of the assessment or for any period following that period within one year of the date of the assessment unless a longer period for claiming a refund is provided in this section.

E. No credit or refund shall be allowed or made to any person claiming a refund of gasoline tax under Section

7-13-11 NMSA 1978 unless notice of the destruction of the gasoline was given the department within thirty days of the actual destruction and the claim for refund is made within six months of the date of destruction. No credit or refund shall be allowed or made to any person claiming a refund of gasoline tax under Section 7-13-17 NMSA 1978 unless the refund is claimed within six months of the date of purchase of the gasoline and the gasoline has been used at the time the claim for refund is made.

F. If, as a result of an audit by the internal revenue service or the filing of an amended federal return changing a prior election or making any other change for which federal approval is required by the Internal Revenue Code, any adjustment of federal tax is made with the result that there would have been an overpayment of tax if the adjustment to federal tax had been applied to the taxable period to which it relates, claim for credit or refund of only that amount based on the adjustment may be made as provided in this section within one year of the date of the internal revenue service audit adjustment or payment of the federal refund or within the period limited by Subsection D of this section, whichever expires later. Interest computed at the rate specified in Subsection B of Section 7-1-68 NMSA 1978 shall be allowed on any such claim for refund from the date one hundred twenty days after the claim is made until the date the final decision to grant the credit or refund is made.

G. If as a result of an audit by the department or a managed audit covering multiple periods an overpayment of tax is found in any period under the audit, that overpayment may be credited against an underpayment of the same tax found in another period under audit pursuant to Section 7-1-29 NMSA 1978, provided that the taxpayer files a claim for refund for the overpayments identified in the audit.

H. Any refund of tax paid under any tax or tax act administered under Subsection B of Section 7-1-2 NMSA 1978 may be made, at the discretion of the department, in the form of credit against future tax payments if future tax liabilities in an amount at least equal to the credit amount reasonably may be expected to become due.

I. For the purposes of this section, the term "oil and gas tax return" means a return reporting tax due with respect to oil, natural gas, liquid hydrocarbons, carbon dioxide, helium or nonhydrocarbon gas pursuant to the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas Production Equipment Ad Valorem Tax Act.

J. The filing of a fully completed original income tax return, corporate income tax return, corporate income and franchise tax return, estate tax return or special fuel excise tax return that shows a balance due the taxpayer or a fully completed amended income tax return, an amended corporate income tax return, an amended corporate income and franchise tax return, an amended estate tax return, an amended special fuel excise tax return or an amended oil and gas tax return that shows a lesser tax liability than the original return constitutes the filing of a claim for refund for the difference in tax due shown on the original and amended returns."

## Chapter 275 Section 3 Laws 2007

Section 3. Section 7-25-3 NMSA 1978 (being Laws 1966, Chapter 48, Section 3, as amended) is amended to read:

"7-25-3. DEFINITIONS.--As used in the Resources Excise Tax Act:

A. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "natural resource" means timber and any product thereof and any metalliferous or nonmetalliferous mineral product, combination or compound thereof, severed in New Mexico but does not include oil, natural gas, liquid hydrocarbon individually or any combination thereof, carbon dioxide, helium or nonhydrocarbon gas;

C. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity;

D. "processing" means smelting, leaching, refining, reducing, compounding or otherwise preparing for sale or commercial use any natural resource so that its character or condition is materially changed in mills or plants located in New Mexico;

E. "processor" means any person engaging in the business of processing natural resources that the person owns, or any person who is the owner of natural resources and who has another person perform the processing of such natural resources;

F. "service charge" means the total amount of money or the reasonable value of other consideration received for severing or processing any natural resource by any person who is not the owner of the natural resource. However, if the money received does not represent the value of the severing or processing performed, "service charge" means the reasonable value of the severing or processing performed;

G. "severer" means any person engaging in the business of severing natural resources that the person owns, or any person who is the owner of natural resources and who has another person perform the severing of such natural resources;

H. "severing" means mining, quarrying, extracting, felling or producing any natural resource in New Mexico for sale, profit or commercial use; and

I. "taxable value" means the value after severing or processing, without deduction of any kind other than specified in this subsection, of any natural resource severed or processed in New Mexico. It is presumed, in the absence of preponderant evidence of another value, that the taxable value means the total amount of money or the reasonable value of other consideration received for the severed or processed natural resource. However, if the amount of money received does not represent the

value of the severed or processed natural resource or if the severed or processed natural resource is not sold, the taxable value shall be the reasonable value of the severed or processed natural resource. All natural resources severed or processed in New Mexico shall be included in determining taxable value, regardless of the place of sale or the fact that delivery may be made to points outside of New Mexico. If any person shall ship, transmit or transport natural resources out of New Mexico without making sale of them or shall ship, transmit or transport natural resources out of New Mexico in an unfinished condition, the value of the natural resources in the condition in which they existed when shipped, transmitted or transported out of New Mexico and before they enter interstate commerce, without deduction of any kind other than specified in this subsection, shall be the basis for determining the taxable value. Amounts received from selling natural resources, other than metalliferous mineral ores, whether processed or unprocessed, to the United States or any agency or instrumentality thereof, the state of New Mexico or any political subdivision thereof, or to organizations that have demonstrated to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501 (c) (3) of the United States Internal Revenue Code of 1954, as amended or renumbered, which employ the natural resource in the conduct of functions described in Section 501 (c) (3) and not in the conduct of an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of 1954, as amended or renumbered, may be deducted from taxable value. Any royalty or other similar interest, whether payable in cash or in kind, paid to the United States or any agency or instrumentality thereof, or the state of New Mexico or any political subdivision thereof, or any Indian tribe, Indian pueblo or Indian that is a ward of the United States may be deducted from taxable value. In computing taxable value, any owner of natural resources may deduct any service charge on which the service tax imposed by Section 7-25-6 NMSA 1978 is payable."

## **Chapter 275 Section 4 Laws 2007**

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 347

Approved April 2, 2007

## **LAWS 2007, CHAPTER 276**

AN ACT

RELATING TO ORIENTAL MEDICINE; CLARIFYING THE PRACTICE OF ORIENTAL MEDICINE AND PRESCRIPTIVE AUTHORITY OF DOCTORS OF ORIENTAL MEDICINE.

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

## **Chapter 276 Section 1 Laws 2007**

Section 1. Section 61-14A-3 NMSA 1978 (being Laws 1993, Chapter 158, Section 11, as amended) is amended to read:

"61-14A-3. DEFINITIONS.--As used in the Acupuncture and Oriental Medicine Practice Act:

A. "acupuncture" means the surgical use of needles inserted into and removed from the body and the use of other devices, modalities and procedures at specific locations on the body for the prevention, cure or correction of any disease, illness, injury, pain or other condition by controlling and regulating the flow and balance of energy and function to restore and maintain health;

B. "board" means the board of acupuncture and oriental medicine;

C. "doctor of oriental medicine" means a person licensed as a physician to practice acupuncture and oriental medicine with the ability to practice independently, serve as a primary care provider and as necessary collaborate with other health care providers;

D. "moxibustion" means the use of heat on or above specific locations or on acupuncture needles at specific locations on the body for the prevention, cure or correction of any disease, illness, injury, pain or other condition;

E. "oriental medicine" means the distinct system of primary health care that uses all allied techniques of oriental medicine, both traditional and modern, to diagnose, treat and prescribe for the prevention, cure or correction of disease, illness, injury, pain or other physical or mental condition by controlling and regulating the flow and balance of energy, form and function to restore and maintain health;

F. "primary care provider" means a health care practitioner acting within the scope of the health care practitioner's license who provides the first level of basic or general health care for a person's health needs, including diagnostic and treatment services, initiates referrals to other health care practitioners and maintains the continuity of care when appropriate;

G. "techniques of oriental medicine" means:

(1) the diagnostic and treatment techniques used in oriental medicine that include diagnostic procedures; acupuncture; moxibustion; manual therapy, also known as tui na; other physical medicine modalities and therapeutic procedures; breathing and exercise techniques; and dietary, nutritional and lifestyle counseling;

(2) the prescribing, administering, combining and providing of herbal medicines, homeopathic medicines, vitamins, minerals, enzymes, glandular products, natural substances, natural medicines, protomorphogens, live cell products, gerovital, amino acids, dietary and nutritional supplements, cosmetics as they are defined in the New Mexico Drug, Device and Cosmetic Act and nonprescription drugs as they are defined in the Pharmacy Act; and

(3) the prescribing, administering and providing of devices, restricted devices and prescription devices, as those devices are defined in the New Mexico Drug, Device and Cosmetic Act, if the board determines by rule that the devices are necessary in the practice of oriental medicine and if the prescribing doctor of oriental medicine has fulfilled requirements for prescriptive authority in accordance with rules promulgated by the board for the devices enumerated in this paragraph; and

H. "tutor" means a doctor of oriental medicine with at least ten years of clinical experience who is a teacher of acupuncture and oriental medicine."

## **Chapter 276 Section 2 Laws 2007**

Section 2. Section 61-14A-4.1 NMSA 1978 (being Laws 2003, Chapter 193, Section 1) is amended to read:

"61-14A-4.1. CERTIFIED AURICULAR DETOXIFICATION SPECIALISTS, SUPERVISORS AND TRAINING PROGRAMS--FEES.--

A. A person who is not a doctor of oriental medicine or who is not a person certified as an auricular detoxification specialist pursuant to the Acupuncture and Oriental Medicine Practice Act shall not:

(1) practice auricular acupuncture for the treatment of alcoholism, substance abuse or chemical dependency;

(2) use the title of or represent as a certified auricular detoxification specialist or use any other title, abbreviation, letters, figures, signs or devices that indicate that the person is certified to practice as an auricular detoxification specialist; or

(3) advertise, hold out to the public or represent in any manner that the person is authorized to practice auricular detoxification.

B. The board shall issue an auricular detoxification specialist certification to a person who has paid an application fee to the board and has successfully completed all board requirements. The board shall adopt rules that require an applicant to:

(1) successfully complete the national acupuncture detoxification association training or equivalent training approved by the board that shall include clean needle technique training;

(2) demonstrate experience in treatment, disease prevention, harm reduction and counseling of people suffering from alcoholism, substance abuse or chemical dependency or become employed by a substance abuse treatment program;

(3) complete a board-approved training program that will include examinations on clean needle technique, jurisprudence and other skills required by the board; and

(4) demonstrate a record free of convictions for drug- or alcohol-related offenses for at least two consecutive years before the person applied to the board for certification.

C. A certified auricular detoxification specialist is authorized to perform auricular acupuncture and the application to the ear of simple board-approved devices that do not penetrate the skin for the purpose of treating and preventing alcoholism, substance abuse or chemical dependency. The specialist shall use the five auricular point national acupuncture detoxification procedure or auricular procedures approved or established by rule of the board and shall only treat or prevent alcoholism, substance abuse or chemical dependency within a board-approved program that demonstrates experience in disease prevention, harm reduction or the treatment or prevention of alcoholism, substance abuse or chemical dependency.

D. A person certified pursuant to this section shall use the title "certified auricular detoxification specialist" or "C.A.D.S." for the purpose of advertising auricular acupuncture services to the public.

E. A certified auricular detoxification specialist shall apply with the board to renew the certification. The board shall for one year renew the certification of an applicant who pays a renewal fee and completes the requirements established by rule of the board. An applicant who does not apply for renewal before the last date that the certification is valid may be required to pay a late fee pursuant to a rule of the board. The board shall deem a certification for which a renewal has not been applied within sixty days of that date as expired and an applicant that seeks valid certification shall apply with the board for new certification. The board shall by rule require an applicant for renewal of the certification to demonstrate a record free of convictions for drug- or alcohol-related offenses for a minimum of one year prior to application for renewal with the board.

F. A certified auricular detoxification specialist shall practice under the supervision of a licensed doctor of oriental medicine registered with the board as an auricular detoxification specialist supervisor. A supervising doctor of oriental medicine shall be accessible for consultation directly or by telephone to a practicing auricular detoxification specialist. The supervising doctor of oriental medicine shall not supervise more specialists than permitted by board rule. Supervision requirements shall be provided by rule of the board.

G. A doctor of oriental medicine who supervises a certified auricular detoxification specialist shall apply for registration with the board. The board shall issue an auricular detoxification specialist supervisor registration to a doctor of oriental medicine who fulfills board requirements. The board shall by rule require an applicant for registration to list the certified auricular detoxification specialists that will be supervised, pay an application fee for registration and demonstrate clinical experience in treating or counseling people suffering from alcoholism, substance abuse or chemical dependency.

H. A training program that educates auricular detoxification specialists for certification shall apply for approval by the board. The board shall approve a training program that fulfills the board requirements established by rule and that pays an application fee. The approval shall be valid until July 31 following the initial approval.

I. A training program that is approved by the board to provide training for certification of auricular detoxification specialists shall apply to renew the approval with the board. The board shall renew the approval of a program that fulfills board requirements established by rule, and the renewal shall be valid for one year. An applicant who does not renew before the last date that the renewed approval is valid shall pay a late fee. The board shall deem a program approval that is not renewed within sixty days of that date as expired and a program that seeks board approval shall apply with the board for new approval.

J. The board shall impose the following fees:

(1) an application fee not to exceed one hundred fifty dollars (\$150) for auricular detoxification specialist certification;

(2) a fee not to exceed seventy-five dollars (\$75.00) for renewal of an auricular detoxification specialist certification;

(3) an application fee not to exceed two hundred dollars (\$200) for registration of a certified auricular detoxification specialist supervisor;

(4) an application fee not to exceed two hundred dollars (\$200) for the approval of an auricular detoxification specialist training program;

(5) a fee not to exceed one hundred fifty dollars (\$150) for the renewal of the approval of an auricular detoxification training specialist training program; and

(6) a late fee not to exceed fifty dollars (\$50.00) for applications for renewal filed after the last valid date of a registration, certification, approval or renewal issued pursuant to this section.

K. In accordance with the procedures set forth in the Uniform Licensing Act, the board may deny, revoke or suspend any certification, registration, approval or renewal

that a person holds or applies for pursuant to this section upon findings by the board that the person violated any rule established by the board."

## **Chapter 276 Section 3 Laws 2007**

Section 3. Section 61-14A-8.1 NMSA 1978 (being Laws 2000, Chapter 53, Section 12) is amended to read:

"61-14A-8.1. EXPANDED PRACTICE AND PRESCRIPTIVE AUTHORITY--  
CERTIFICATIONS.--

A. The board shall issue certifications, as determined by rule of the board, for expanded practice and prescriptive authority only for the substances enumerated in Paragraphs (1) and (2) of Subsection C of this section to a doctor of oriental medicine who has submitted completed forms provided by the board, paid the application fee for certification and submitted proof of successful completion of additional training required by rule of the board. The board shall adopt the rules determined by the board of pharmacy for additional training required for the prescribing, administering, compounding or dispensing of caffeine, procaine, oxygen, epinephrine and bioidentical hormones. The board and the board of pharmacy shall consult as appropriate.

B. The board shall issue certifications in the four expanded practices of basic injection therapy, injection therapy, intravenous therapy and bioidentical hormone therapy.

C. The expanded practice and prescriptive authority shall include:

(1) the prescribing, administering, compounding and dispensing of herbal medicines, homeopathic medicines, vitamins, minerals, amino acids, proteins, enzymes, carbohydrates, lipids, glandular products, natural substances, natural medicines, protomorphogens, live cell products, gerovital, dietary and nutritional supplements, cosmetics as they are defined in the New Mexico Drug, Device and Cosmetic Act and nonprescription drugs as they are defined in the Pharmacy Act; and

(2) the prescribing, administering, compounding and dispensing of the following dangerous drugs or controlled substances as they are defined in the New Mexico Drug, Device and Cosmetic Act, the Controlled Substances Act or the Pharmacy Act, if the prescribing doctor of oriental medicine has fulfilled the requirements for expanded practice and prescriptive authority in accordance with the rules promulgated by the board for the substances enumerated in this paragraph:

- (a) sterile water;
- (b) sterile saline;
- (c) sarapin or its generic;

- (d) caffeine;
- (e) procaine;
- (f) oxygen;
- (g) epinephrine;
- (h) vapocoolants;
- (i) bioidentical hormones;
- (j) biological products, including therapeutic serum; and

(k) any of the drugs or substances enumerated in Paragraph (1) of this subsection if at any time those drugs or substances are classified as dangerous drugs or controlled substances.

D. When compounding drugs for their patients, doctors of oriental medicine certified for expanded practice and prescriptive authority shall comply with the compounding requirements for licensed health care professionals in the United States pharmacopeia and national formulary."

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Senate Judiciary Committee

Substitute for Senate Bill 353

Approved April 2, 2007

## **LAWS 2007, CHAPTER 277**

AN ACT

RELATING TO THE PRACTICE OF OPTOMETRY; INCLUDING CERTAIN SPECIFIC TYPES OF SURGERY WITHIN THE PRACTICE OF OPTOMETRY; DECLARING AN EMERGENCY.

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

### **Chapter 277 Section 1 Laws 2007**

Section 1. Section 61-2-2 NMSA 1978 (being Laws 1973, Chapter 353, Section 2, as amended) is amended to read:

"61-2-2. DEFINITIONS.--As used in the Optometry Act:

A. "practice of optometry" means:

(1) the employment of any subjective or objective means or methods, including but not limited to the use of lenses, prisms, autorefractors or other automated testing devices, and includes the prescription or administration of drugs for the purpose of diagnosing the visual defects or abnormal conditions of the human eye and its adnexa;

(2) the employing, adapting or prescribing of preventive or corrective measures, including but not limited to lenses, prisms, contact or corneal lenses or other optical appliances, ocular exercises, vision therapy, vision training and vision rehabilitation services, and includes the prescription or administration of all drugs rational for the correction, relief or referral of visual defects or abnormal conditions of the human eye and its adnexa; and

(3) does not include the use of surgery or injections in the treatment of eye diseases except for the use of the following types of in-office minor surgical procedures:

(a) non-laser removal, destruction or drainage of superficial eyelid lesions and conjunctival cysts;

(b) removal of nonperforating foreign bodies from the cornea, conjunctiva and eyelid;

(c) non-laser corneal debridement, culture, scrape or anterior puncture, not including removal of pterygium, corneal biopsy or removal of corneal neoplasias;

(d) removal of eyelashes; and

(e) probing, dilation, irrigation or closure of the tear drainage structures of the eyelid; scalpel use is to be applied only for the purpose of use on the skin surrounding the eye;

B. "ophthalmic lens" means a lens that has a spherical, cylindrical or prismatic value, is ground pursuant to a prescription and is intended to be used as eyeglasses;

C. "contact lens" means a lens to be worn on the anterior segment of the human eye;

D. "prescription" means a written order by an optometrist or a physician for an individual patient for:

(1) ophthalmic lenses;

(2) contact lenses; or

(3) a topical ocular pharmaceutical agent or an oral pharmaceutical agent that is regulated pursuant to the New Mexico Drug, Device and Cosmetic Act;

E. "eyeglasses" means an exterior optical device using ophthalmic lenses for the correction or relief of disturbances in and anomalies of human vision; and

F. "board" means the board of optometry."

## **Chapter 277 Section 2 Laws 2007**

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

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Senate Public Affairs Committee

Substitute for Senate Bill 367, as amended

with emergency clause, with certificate

of correction

Approved April 2, 2007

## **LAWS 2007, CHAPTER 278**

AN ACT

RELATING TO HEALTH INSURANCE COVERAGE; MANDATING COVERAGE FOR THE HUMAN PAPILLOMAVIRUS VACCINE.

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

## **Chapter 278 Section 1 Laws 2007**

Section 1. A new Section 59A-22-40.1 NMSA 1978 is enacted to read:

"59A-22-40.1. COVERAGE FOR THE HUMAN PAPILLOMAVIRUS VACCINE.--

A. An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall

provide coverage for the human papillomavirus vaccine to females nine to fourteen years of age.

B. Coverage for the human papillomavirus vaccine may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.

C. The provisions of this section shall not apply to short-term travel, accident-only or limited or specified disease policies.

D. For the purposes of this section, "human papillomavirus vaccine" means a vaccine approved by the federal food and drug administration used for the prevention of human papillomavirus infection and cervical precancers."

## **Chapter 278 Section 2 Laws 2007**

Section 2. Section 59A-23-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 463, as amended) is amended to read:

"59A-23-4. OTHER PROVISIONS APPLICABLE.--

A. A blanket or group health insurance policy or contract shall not contain a provision relative to notice or proof of loss or the time for paying benefits or the time within which suit may be brought upon the policy that in the superintendent's opinion is less favorable to the insured than would be permitted in the required or optional provisions for individual health insurance policies as set forth in Chapter 59A, Article 22 NMSA 1978.

B. The following provisions of Chapter 59A, Article 22 NMSA 1978 shall also apply as to Chapter 59A, Article 23 NMSA 1978 and blanket and group health insurance contracts:

(1) Section 59A-22-1 NMSA 1978, except Subsection C of that section;

and

(2) Section 59A-22-32 NMSA 1978.

C. The following provisions of Chapter 59A, Article 22 NMSA 1978 shall also apply as to group health insurance contracts:

(1) Section 59A-22-33 NMSA 1978;

(2) Section 59A-22-34 NMSA 1978;

(3) Section 59A-22-34.1 NMSA 1978;

- (4) Section 59A-22-34.3 NMSA 1978;
- (5) Section 59A-22-35 NMSA 1978;
- (6) Section 59A-22-36 NMSA 1978;
- (7) Section 59A-22-39 NMSA 1978;
- (8) Section 59A-22-39.1 NMSA 1978;
- (9) Section 59A-22-40 NMSA 1978;
- (10) Section 59A-22-40.1 NMSA 1978;
- (11) Section 59A-22-41 NMSA 1978;
- (12) Section 59A-22-42 NMSA 1978; and
- (13) Section 59A-22-44 NMSA 1978."

### **Chapter 278 Section 3 Laws 2007**

Section 3. A new Section 59A-46-42.1 NMSA 1978 is enacted to read:

"59A-46-42.1. COVERAGE FOR THE HUMAN PAPILLOMAVIRUS VACCINE.--

A. An individual or group health maintenance organization contract delivered, issued for delivery or renewed in this state shall provide coverage for the human papillomavirus vaccine to females nine to fourteen years of age.

B. Coverage for the human papillomavirus vaccine may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.

C. The provisions of this section shall not apply to short-term travel, accident-only or limited or specified disease policies.

D. For the purposes of this section, "human papillomavirus vaccine" means a vaccine approved by the federal food and drug administration used for the prevention of human papillomavirus infection and cervical precancers."

### **Chapter 278 Section 4 Laws 2007**

Section 4. Section 59A-47-33 NMSA 1978 (being Laws 1984, Chapter 127, Section 879.32, as amended) is amended to read:

"59A-47-33. OTHER PROVISIONS APPLICABLE.--The provisions of the Insurance Code other than Chapter 59A, Article 47 NMSA 1978 shall not apply to health care plans except as expressly provided in the Insurance Code and that article. To the extent reasonable and not inconsistent with the provisions of that article, the following articles and provisions of the Insurance Code shall also apply to health care plans, their promoters, sponsors, directors, officers, employees, agents, solicitors and other representatives; and, for the purposes of such applicability, a health care plan may therein be referred to as an "insurer":

- A. Chapter 59A, Article 1 NMSA 1978;
- B. Chapter 59A, Article 2 NMSA 1978;
- C. Chapter 59A, Article 4 NMSA 1978;
- D. Subsection C of Section 59A-5-22 NMSA 1978;
- E. Sections 59A-6-2 through 59A-6-4 and 59A-6-6 NMSA 1978;
- F. Section 59A-7-11 NMSA 1978;
- G. Chapter 59A, Article 8 NMSA 1978;
- H. Chapter 59A, Article 10 NMSA 1978;
- I. Section 59A-12-22 NMSA 1978;
- J. Chapter 59A, Article 16 NMSA 1978;
- K. Chapter 59A, Article 18 NMSA 1978;
- L. the Policy Language Simplification Law;
- M. Subsections B through E of Section 59A-22-5 NMSA 1978;
- N. Section 59A-22-14 NMSA 1978;
- O. Section 59A-22-34.1 NMSA 1978;
- P. Section 59A-22-39 NMSA 1978;
- Q. Section 59A-22-40 NMSA 1978;
- R. Section 59A-22-40.1 NMSA 1978;
- S. Section 59A-22-41 NMSA 1978;

T. Section 59A-22-42 NMSA 1978;

U. Section 59A-22-44 NMSA 1978;

V. Sections 59A-34-7 through 59A-34-13,

59A-34-17, 59A-34-23, 59A-34-33, 59A-34-40 through 59A-34-42 and 59A-34-44 through 59A-34-46 NMSA 1978;

W. The Insurance Holding Company Law, except Section 59A-37-7 NMSA 1978;

X. Section 59A-46-15 NMSA 1978; and

Y. the Patient Protection Act."

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Senate Bill 407, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 279**

### **AN ACT**

RELATING TO HEALTH; REVISING DEADLINES FOR PUBLICATION OF THE COMPREHENSIVE STRATEGIC PLAN FOR HEALTH AND FOR UPDATES AND AMENDMENTS TO THE PLAN.

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

### **Chapter 279 Section 1 Laws 2007**

Section 1. Section 9-7-4.1 NMSA 1978 (being Laws 2004, Chapter 51, Section 1) is amended to read:

"9-7-4.1. COMPREHENSIVE STRATEGIC PLAN FOR HEALTH.--

A. The department, in conjunction with the New Mexico health policy commission and other state agencies, pursuant to Section 9-7-11.1 NMSA 1978, shall develop a comprehensive strategic plan for health that emphasizes prevention, personal responsibility, access and quality.

B. The department shall publish the comprehensive strategic plan for health by September 1, 2008 and every four years thereafter. By September 1 of each even-

numbered year, the department shall review and update or amend the plan in response to changes and developments.

C. The department shall include the legislature, health care providers, consumer and patient advocates, health care financing organizations, managed care organizations, major insurers in the state, the human services department, the children, youth and families department, the aging and long-term services department, pharmaceutical manufacturers and other stakeholders in its development of the comprehensive strategic plan for health so as to give geographic representation to all areas of the state. The department shall ensure that public participation and public input are integrated into the planning process. The department shall convene regional meetings on the proposed plan to allow public review and comment, including oral and written testimony, pursuant to the Open Meetings Act.

D. The department shall consult with the governments of Indian nations, tribes and pueblos located wholly or partially within New Mexico to include Indian nations, tribes and pueblos in the development of the comprehensive strategic plan for health.

E. The department shall report its findings, recommendations and goals in its comprehensive strategic plan for health. The plan shall address the following areas and others that the governor and the legislature may from time to time request:

(1) a summary of the state's health care system that includes the financial, administrative and delivery structure in both the public and private sector;

(2) the diseases, injuries and risk factors for physical, behavioral and oral health that are the greatest cause of illness, injury or death in the state, with special attention to and recognition of the disparities that currently exist for different population groups;

(3) key indicators of and barriers to health care coverage and access, with specific emphasis on reducing the number of uninsured New Mexicans;

(4) the role of the department, other state agencies and the private sector in identifying strategies and interventions to provide health care coverage, access and quality;

(5) a continuum of care model that emphasizes prevention, early intervention and health promotion and that includes public health services, emergency medical services, primary care, acute care, specialized care, tertiary care and long-term care;

(6) health education, wellness, nutrition and exercise initiatives that emphasize personal health responsibility;

(7) workforce initiatives to identify, recruit and retain health care professionals;

(8) health care facility infrastructure, capacity, capitalization and financial viability in both the public and private sector;

(9) licensing, credentialing, oversight and tracking initiatives designed to improve health care quality and outcome measurements;

(10) programs, services and activities designed to address the needs of the disabled, elderly and other special-needs populations;

(11) anticipated demands and challenges on the health care system as the need for long-term care services increases;

(12) data and information addressing key health status and system indicators, statistics, benchmarks, targets and goals for the state and comparing it nationally, regionally and to other states of similar size and demographics; provided that individually identifiable health information and other proprietary information is protected as required by state or federal law; and

(13) planning and response to public health emergencies, including bioterrorism, pandemic flu, disease outbreaks and other situations that will require a coordinated response by the health care system."

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Senate Bill 409, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 280**

AN ACT

RELATING TO HIGHER EDUCATION; CREATING THE ALLIANCE FOR UNDERREPRESENTED STUDENTS AT NEW MEXICO STATE UNIVERSITY.

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

### **Chapter 280 Section 1 Laws 2007**

Section 1. A new section of Chapter 21, Article 8 NMSA 1978 is enacted to read:

"ALLIANCE FOR UNDERREPRESENTED STUDENTS CREATED--PURPOSE.-

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A. "The alliance for underrepresented students" is created at New Mexico state university.

B. Participating organizations in the alliance shall be the New Mexico alliance for minority participation and the regional alliance for science, engineering and mathematics for students with disabilities. The purposes of the alliance are to:

(1) promote science, technology, engineering and mathematics education and retention at the undergraduate and graduate level for underrepresented students;

(2) engage in research on and development of programs that support student retention and achievement;

(3) disseminate knowledge acquired through education and retention programs; and

(4) collaborate with and provide assistance to kindergarten through twelfth grade educators and

post-secondary educational institutions to support science, technology, engineering and mathematics education and student achievement.

C. The alliance shall submit an annual report to

the board of regents of New Mexico state university and the legislature detailing the activities and accomplishments of the alliance. The reports of the alliance may be printed and distributed by the university as appropriate, and revenue from the sale of the reports shall be paid into the account of the New Mexico state university.

D. The alliance may receive appropriations from the legislature through the board of regents and may receive gifts, grants and donations from public or private sources."

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Senate Bill 422

Approved April 2, 2007

## **LAWS 2007, CHAPTER 281**

AN ACT

RELATING TO HIGHER EDUCATION; CREATING THE REGIONAL EDUCATION TECHNOLOGY ASSISTANCE CENTER AT THE NEW MEXICO STATE UNIVERSITY.

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

## **Chapter 281 Section 1 Laws 2007**

Section 1. A new section of Chapter 21, Article 8 NMSA 1978 is enacted to read:

"REGIONAL EDUCATIONAL TECHNOLOGY ASSISTANCE CENTER CREATED.--The "regional educational technology assistance center" is created as a professional development center at New Mexico state university's college of extended learning. The center shall provide technology integration training into teaching and learning; professional development dossier creation; use of data to drive instruction to improve student learning outcomes; internet safety, online teaching and learning and technical assistance; faculty development in integrating technology and distance learning tools; and implementing the New Mexico learning network. All of the services provided shall be available to pre-kindergarten through college throughout New Mexico. The regional educational technology assistance center shall prepare an annual report for the legislature detailing the activities and accomplishments of the center."

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Senate Bill 425

Approved April 2, 2007

## **LAWS 2007, CHAPTER 282**

AN ACT

RELATING TO INSURANCE; UPDATING CAPITAL REQUIREMENTS AND OTHER PROVISIONS; PROVIDING PENALTIES; RECOMPILING A SECTION OF THE NMSA 1978; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NEW MEXICO INSURANCE CODE.

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

## **Chapter 282 Section 1 Laws 2007**

Section 1. Section 59A-5-16 NMSA 1978 (being Laws 1984, Chapter 127, Section 83, as amended by Laws 1987, Chapter 259, Section 4 and also by Laws 1987, Chapter 262, Section 1) is repealed and a new Section 59A-5-16 NMSA 1978 is enacted 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

Premium Volume:	Under \$5	\$5 to \$10	\$10 to \$25	Over \$25
	Million	Million	Million	Million

Number of Kinds of Insurance

	<u>1</u>	<u>2</u>	<u>3</u>			
Basic Capital	500,000	600,000	700,000	800,000	900,000	
	1,000,000					
Additional						
Surplus	500,000	600,000	700,000	same as	same as	same
as						
		Under	Under	Under		
		\$5 Million	\$5 Million	\$5 Million		
General Deposit	100,000	200,000	300,000	400,000	400,000	
400,000						
Special Deposit	100,000	200,000	300,000	same as	same as	
same as						
		Under	Under	Under		
		\$5 Million	\$5 Million	\$5 Million		
Life/Health Insurer						
Premium Volume:		Under \$5	\$5 to \$10	\$10 to \$25	Over \$25	
	Million	Million	Million	Million		
Basic Capital	600,000	700,000	800,000	900,000		
Additional Surplus	400,000	400,000	400,000	400,000	400,000	
General Deposit	100,000	100,000	100,000	100,000	100,000	
Special Deposit	100,000	100,000	100,000	100,000	100,000	

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 and/or Surety;

Property and/or Marine & Transportation;

Vehicle; 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 282 Section 2 Laws 2007**

Section 2. Section 59A-5-29 NMSA 1978 (being Laws 1984, Chapter 127, Section 96, as amended) is amended to read:

"59A-5-29. ANNUAL STATEMENT.--

A. Each authorized insurer shall annually on or before March 1, or within any reasonable extension of time that the superintendent for good cause may have granted on or before such date, file with the superintendent and with the national association of insurance commissioners a full and true statement of its financial condition and of its transactions and affairs as of the December 31 next preceding. The statement shall be prepared in the form of the annual statement blank prescribed by the national association of insurance commissioners for use in the United States for the type of insurer and kinds of insurance to be reported upon, in accordance with the annual statement instructions and the accounting practices and procedures manual published by the national association of insurance commissioners, or such other form and

instructions as the superintendent may prescribe, and supplemented by additional information reasonably required by the superintendent; the superintendent may require that the annual statement data be filed in electronically readable format or in lieu of filing, may accept a statement or supplemental information filed in electronic format with the national association of insurance commissioners that is readily available to the superintendent and that the superintendent can reproduce or otherwise make available to the public for a period of at least five years from the date that the filing is due. The statement shall be verified by the oath of the insurer's president or vice president and secretary or actuary, as applicable; or, in absence of the foregoing, by two other principal officers; or if a reciprocal insurer or Lloyds insurer, the oath of the

attorney-in-fact or its like officers if a corporation.

B. The statement of an alien insurer shall be verified by its United States manager or other officer duly authorized and shall relate only to the insurer's transactions and affairs in the United States unless the superintendent requires otherwise. If the superintendent requires a statement as to the alien insurer's affairs throughout the world, the insurer shall file such statement with the superintendent as soon as reasonably possible.

C. If the insurer's statement is in any language other than English or in monetary amounts other than United States dollars, the statement shall be accompanied by an English-language translation and monetary amounts shall be shown in United States dollars with statement of the basis upon and date as of which the monetary conversion was made.

D. The superintendent may suspend or revoke the certificate of authority of any insurer failing to file its annual statement when due.

E. At time of filing, the insurer shall pay the fee for filing its annual statement with the superintendent as prescribed by Section 59A-6-1 NMSA 1978, and pay to the national association of insurance commissioners the fee established for filing, review or processing of the information, unless such fee has been disapproved by the superintendent.

F. In the absence of actual malice, members of national association of insurance commissioners, their duly authorized committees, subcommittees and task forces, their delegates, employees and all others charged by the superintendent or the national association of insurance commissioners with the responsibility of collecting, reviewing, analyzing and disseminating the information developed from the filing of the annual statement blanks shall be acting as agents of the superintendent under the authority of the Insurance Code and shall not be subject to civil liability for libel, slander or any other cause of action by virtue of their collection, review and analysis or dissemination of the data and information collected from the filings required hereunder.

G. As to publication of nonstatutory financial statements, refer to Section 59A-16-9 NMSA 1978."

## **Chapter 282 Section 3 Laws 2007**

Section 3. Section 59A-6-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 102, as amended) is amended to read:

"59A-6-2. PREMIUM TAX--HEALTH INSURANCE PREMIUM SURTAX.--

A. The premium tax provided for in this section shall apply as to the following taxpayers:

(1) each insurer authorized to transact insurance in New Mexico;

(2) each insurer formerly authorized to transact insurance in New Mexico and receiving premiums on policies remaining in force in New Mexico, except that this provision shall not apply as to an insurer that withdrew from New Mexico prior to March 26, 1955;

(3) each plan operating under provisions of Chapter 59A, Articles 46 through 49 NMSA 1978;

(4) each property bondsman, as that person is defined in Section 59A-51-2 NMSA 1978, as to any consideration received as security or surety for a bail bond in connection with a judicial proceeding, which consideration shall be considered "gross premiums" for the purposes of this section; and

(5) each unauthorized insurer that has assumed a contract or policy of insurance directly or indirectly from an authorized or formerly authorized insurer and is receiving premiums on such policies remaining in force in New Mexico, except that this provision shall not apply if a ceding insurer continues to pay the tax provided in this section as to such policy or contract.

B. Each such taxpayer shall pay in accordance with this subsection a premium tax of three and three-thousandths percent of the gross premiums and membership and policy fees received or written by it, as reported in Schedule T and supporting schedules of its annual financial statement on insurance or contracts covering risks within this state during the preceding calendar year, less all return premiums, including dividends paid or credited to policyholders or contract holders and premiums received for reinsurance on New Mexico risks.

C. In addition to the premium tax imposed pursuant to Subsection B of this section, each taxpayer described in Subsection A of this section that transacts health insurance in New Mexico or is a plan described in Chapter 59A, Article 46 or 47 NMSA

1978 shall pay a health insurance premium surtax of one percent of the gross health insurance premiums and membership and policy fees received by it on hospital and medical expense incurred insurance or contracts; nonprofit health care service plan contracts, excluding dental or vision only contracts; and health maintenance organization subscriber contracts covering health risks within this state during the preceding calendar year, less all return health insurance premiums, including dividends paid or credited to policyholders or contract holders and health insurance premiums received for reinsurance on New Mexico risks. Except as provided in this section, all references in the Insurance Code to the premium tax shall include both the premium tax and the health insurance premium surtax.

D. For each calendar quarter, an estimated payment of the premium tax and the health insurance premium surtax shall be made on April 15, July 15, October 15 and the following January 15. The estimated payments shall be equal to at least one-fourth of either the payment made during the previous calendar year or eighty percent of the actual payment due for the current calendar year, whichever is greater. The final adjustment for payments due for the prior year shall be made with the return, which shall be filed on April 15 of each year, at which time all taxes for that year are due. Dividends paid or credited to policyholders or contract holders and refunds, savings, savings coupons and similar returns or credits applied or credited to payment of premiums for existing, new or additional insurance shall, in the amount so used, constitute premiums subject to tax under this section for the year in which so applied or credited.

E. Exempted from the taxes imposed by this section are:

(1) premiums attributable to insurance or contracts purchased by the state or a political subdivision for the state's or political subdivision's active or retired employees; and

(2) payments received by a health maintenance organization from the federal secretary of health and human services pursuant to a contract issued under the provisions of 42 U.S.C. Section 1395 mm(g)."

## **Chapter 282 Section 4 Laws 2007**

Section 4. Section 59A-6-5 NMSA 1978 (being Laws 1984, Chapter 127, Section 105, as amended) is amended to read:

"59A-6-5. DISTRIBUTION OF DIVISION COLLECTIONS.--

A. All money received by the division for fees, licenses, penalties and taxes shall be paid daily by the superintendent to the state treasurer and credited to the "insurance department suspense fund" except as provided by:

(1) the Law Enforcement Protection Fund Act;

(2) Section 59A-6-1.1 NMSA 1978; and

(3) the Voter Action Act.

B. The superintendent may authorize refund of money erroneously paid as fees, licenses, penalties or taxes from the insurance department suspense fund under request for refund made within three years after the erroneous payment. In the case of premium taxes erroneously paid or overpaid in accordance with law, refund may also be requested as a credit against premium taxes due in any annual or quarterly premium tax return filed within three years of the erroneous or excess payment.

C. The "insurance operations fund" is created in the state treasury. The fund shall consist of the distributions made to it pursuant to Subsection D of this section. The legislature shall annually appropriate from the fund to the division those amounts necessary for the division to carry out its responsibilities pursuant to the Insurance Code and other laws. Any balance in the fund at the end of a fiscal year greater than one-half of that fiscal year's appropriation shall revert to the general fund.

D. At the end of every month, after applicable refunds are made pursuant to Subsection B of this section, the treasurer shall make the following transfers from the balance remaining in the insurance department suspense fund:

(1) to the "fire protection fund", that part of the balance derived from property and vehicle insurance business;

(2) to the insurance operations fund, that part of the balance derived from the fees imposed pursuant to Subsections A and E of Section 59A-6-1 NMSA 1978 other than fees derived from property and vehicle insurance business; and

(3) to the general fund, the balance remaining in the insurance department suspense fund derived from all other kinds of insurance business."

## **Chapter 282 Section 5 Laws 2007**

Section 5. A new section of the New Mexico Insurance Code is enacted to read:

"DISHONORED CHECKS AND OTHER FORMS OF PAYMENT-- PENALTY.--  
When a check or an electronic payment transaction for payment of fees is dishonored or reversed by the payer's financial institution, the payer shall pay to the insurance division a civil penalty in the amount of twenty-five dollars (\$25.00). Neither the division nor the fiscal agent of New Mexico is obligated to resubmit the transaction or check for payment. The superintendent shall treat the transaction as though payment has not been made and cancel, suspend, rescind or revoke the transaction for failure to make payment. Any other penalty, reinstatement fee or other cost associated with failure to make the payment shall be in addition to the penalty set forth in this section. In this

section, "electronic payment transaction" means credit card payments, electronic fund transfers, automated clearinghouse transactions and other similar forms of payment."

## **Chapter 282 Section 6 Laws 2007**

Section 6. Section 59A-12-6 NMSA 1978 (being Laws 1984, Chapter 127, Section 207, as amended) is amended to read:

"59A-12-6. LICENSE REQUIRED--PENALTY.--

A. No person shall in this state be, act as or make any representation as being, as to subjects of insurance resident, located or to be performed in this state or elsewhere, an agent or solicitor unless then licensed as such under the Insurance Code.

B. No authorized insurer shall accept insurance of a subject located, resident or to be performed in this state through a person acting as insurance agent in this state if the insurer knows, or reasonably should have known, that such person was not then licensed as an agent as to the insurance or not appointed as its agent by the insurer.

C. No license as agent or broker shall be issued to an entity other than an individual, firm (partnership) or corporation.

D. No agent or solicitor shall solicit or take an application for, or place for others, any kind of insurance as to which not then so licensed.

E. No agent shall place any insurance with an insurer as to which not then licensed or appointed as agent under the Insurance Code, except as permitted by Section 59A-11-10 NMSA 1978.

F. A license as agent or solicitor, or appointment as agent of a particular insurer, shall not be in effect until the license has actually been delivered to the agent or solicitor or to the solicitor's employer agent or the appointment has been duly filed with and approved by the superintendent.

G. In addition to any applicable denial, suspension or revocation of license, refusal to continue license, or administrative fine, violation of this section shall be a misdemeanor punishable by a fine of from one hundred dollars (\$100) to five hundred dollars (\$500) and by forfeiture to the state of New Mexico of an amount equal to all compensation for services as agent or solicitor received or to be received by the violator by reason of the prohibited transactions."

## **Chapter 282 Section 7 Laws 2007**

Section 7. Section 59A-12-18 NMSA 1978 (being Laws 1984, Chapter 127, Section 219, as amended by Laws 2002, Chapter 24, Section 1 and by Laws 2002, Chapter 87, Section 1) is amended to read:

"59A-12-18. LIMITED LICENSE.--

A. The superintendent may issue a limited agent's license to:

(1) individual applicants qualified pursuant to Chapter 59A, Article 12 NMSA 1978 and employed as transportation ticket sellers by public carriers, who in the course of such employment solicit or sell insurance incidental to transportation of persons or storage or transportation of baggage, provided that the license is limited to that insurance; or

(2) 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 or health insurance, under individual policies is customarily required of or offered to the purchaser or borrower, covering only that credit life and health insurance.

B. The superintendent may issue a limited agent's license to applicants who are retail vendors or lessors of communication equipment or services. The license shall authorize the licensee, in connection with the lease, retail sale or provision of communication equipment or communication services for communication equipment, to sell insurance covering the loss, theft, mechanical failure or malfunction of or damage to the communication equipment. The licensee shall provide for the training of its employees who are authorized to sell that insurance. The conduct of the licensee's business under the limited license by its employees shall be attributed to the licensee. As used in this subsection, "communication equipment" means handsets, pagers, personal digital assistants, portable computers, automatic answering devices, batteries and other devices or their accessories used to originate or receive communication signals or service, and includes services related to the use of such devices such as access to a network.

C. No holder of a limited license issued pursuant to this section shall concurrently be otherwise licensed under the Insurance Code."

## **Chapter 282 Section 8 Laws 2007**

Section 8. Section 59A-13-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 230, as amended) is amended to read:

"59A-13-2. DEFINITIONS.--

A. For the purposes of the Insurance Code:

(1) "adjuster" is a person that:

(a) investigates, negotiates, settles or adjusts a loss or claim arising under an insurance contract on behalf of an insurer, insured or self-insurer, for a fee, commission or other compensation; however, an adjuster acting on behalf of an insured shall not investigate, negotiate, settle or adjust a claim involving personal injury to the insured; and

(b) advises the insured of the insured's rights to settlement and the insured's rights to settle, arbitrate and litigate the dispute;

(2) "staff adjuster" is an adjuster individual who is a salaried employee of an insurer or affiliates of the employer insurer, representing and adjusting claims solely under policies of the employer insurer; and

(3) "independent adjuster" is an adjuster who is not a staff adjuster and includes a representative and an employee of an independent adjuster.

B. Except as otherwise provided, "adjuster" does not include:

(1) an attorney-at-law who adjusts insurance losses or claims from time to time incidental to practice of law and who does not advertise or represent as an adjuster;

(2) a licensed agent or general agent of an authorized insurer or an employee of an agent or general agent who adjusts claims or losses under specific authority from the insurer and solely under policies issued by the insurer;

(3) an agent or employee of a life or health insurer who adjusts claims or losses under the insurer's policies or contracts to administer policies or benefits of that type; or

(4) a salaried or part-time claims agent or investigator employed by a self-insured person."

## **Chapter 282 Section 9 Laws 2007**

Section 9. Section 59A-13-8 NMSA 1978 (being Laws 1984, Chapter 127, Section 236) is amended to read:

"59A-13-8. POWERS CONFERRED BY ADJUSTER LICENSE.--An independent adjuster shall have the powers granted by its principal to investigate, report upon, adjust and settle claims on behalf of an insurer or self insurer and have additional powers as to claims and losses as may be conferred by the principal. A staff adjuster shall have only such powers with respect to claims and losses as granted by the adjuster's employer or

affiliates of the adjuster's employer. A temporary adjuster shall, as to claims and losses, have the powers of the employer, subject to extension or limitation by contract."

## **Chapter 282 Section 10 Laws 2007**

Section 10. Section 59A-16-20.1 NMSA 1978 (being Laws 1993, Chapter 350, Section 1) is amended to read:

"59A-16-20.1. HOMEOWNER'S CASUALTY INSURANCE--PREMIUM RATE AND POLICY--PROTECTION AFTER NATURAL DISASTER.--

A. A homeowner's casualty insurance policy shall not be canceled or denied renewal because of a homeowner's claim made as a result of damages caused by a natural disaster to the homeowner's private residence, provided that the homeowner's policy expressly provides for such coverage.

B. The provisions of this section apply to all insurance carriers authorized under the Insurance Code to transact homeowner's casualty insurance policies. For the purposes of this section, "natural disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, earthquake, landslide, mudslide, snowstorm, drought, fire, explosion or other catastrophe that results in substantial damage to property, hardship, suffering or loss of life."

## **Chapter 282 Section 11 Laws 2007**

Section 11. Section 59A-34-37 NMSA 1978 (being Laws 1984, Chapter 127, Section 583) is amended to read:

"59A-34-37. PRESERVATION OF OLD CHARTER IN MERGER, CONSOLIDATION.--

A. In any merger or consolidation of a foreign stock or mutual insurer into or with a domestic insurer under Chapter 59A, Article 34 NMSA 1978, the continuing New Mexico corporation shall for all purposes be deemed to be continuation of the corporate existence of the foreign corporation, with New Mexico as the adoptive state of domicile and with date of corporate origin the same as the original date of incorporation of the foreign insurer in its original domiciliary state or country, subject to the following conditions:

(1) the plan and agreement of merger or consolidation shall provide for such continuation of corporate existence, with designation of New Mexico as the state of domicile of the foreign corporation by adoption, and shall specify the original date of incorporation of the foreign corporation in its original domiciliary state or country as being the date of incorporation of the New Mexico corporation pursuant to this section;

(2) the articles of corporation of the New Mexico corporation shall provide, or be amended to provide, that the corporation is a continuance of the corporate existence, through adoption of New Mexico as the corporate domicile, of the foreign corporation, and shall specify the original date of incorporation of the foreign corporation in its original domiciliary state or country as being the date of incorporation of the New Mexico corporation pursuant to this section; and

(3) the continuing New Mexico corporation shall as of merger or consolidation effective date have paid-in capital stock and additional surplus in amount not less than as required of a newly-authorized foreign stock insurer under Section 59A-5-16 NMSA 1978 to transact the same kinds of insurance, and shall have all the rights and obligations of, and be given recognition in all respects as, a corporation formed under the laws of this state as of the date of incorporation of the foreign corporation in its original domiciliary state or country. This provision shall not be deemed to impose upon the continuing New Mexico corporation any liability or obligation as to filings, fees, taxes or otherwise that might have accrued prior to effective date of the merger or consolidation.

B. This section shall not be deemed in any manner to preserve, after effective date of merger or consolidation, the corporate existence of the foreign corporation as a corporation of its original domiciliary state or country."

## **Chapter 282 Section 12 Laws 2007**

Section 12. Section 59A-48-19 NMSA 1978 (being Laws 1984, Chapter 127, Section 898, as amended) is amended to read:

"59A-48-19. OTHER PROVISIONS APPLICABLE.--In addition to those referred to in Chapter 59A, Article 48 NMSA 1978, the following articles and provisions of the Insurance Code shall also apply, to the extent reasonably applicable and subject to the provisions of that article, as to prepaid dental plan organizations, their sponsors, directors, officers, personnel and representatives and member contracts. For the purposes of this provision, such organizations may be referred to as "insurers" and such contracts as "policies":

- A. Chapter 59A, Article 1 NMSA 1978;
- B. Chapter 59A, Article 2 NMSA 1978;
- C. Chapter 59A, Article 4 NMSA 1978;
- D. Subsection C of Section 59A-5-22 NMSA 1978;
- E. Section 59A-5-33 NMSA 1978;
- F. Sections 59A-6-1, 59A-6-3, 59A-6-4 and 59A-6-6 NMSA 1978;

- G. Section 59A-7-11 NMSA 1978;
- H. Chapter 59A, Article 8 NMSA 1978;
- I. Chapter 59A, Article 10 NMSA 1978;
- J. Section 59A-12-22 NMSA 1978;
- K. the Insurance Fraud Act;
- L. Chapter 59A, Article 18 NMSA 1978;
- M. the Policy Language Simplification Law;
- N. Section 59A-34-10 NMSA 1978, as to domestic prepaid dental plans; and
- O. The Insurance Holding Company Law."

## **Chapter 282 Section 13 Laws 2007**

Section 13. Section 59A-58-6 NMSA 1978 (being Laws 2001, Chapter 206, Section 6) is amended to read:

"59A-58-6. SECURITY REQUIRED FOR REGISTRATION OF PROVIDER.--

A. To ensure the faithful performance of a provider's obligations to the provider's contract holders, a provider shall maintain a deposit with the superintendent as provided in this section.

B. A provider of a service contract shall deposit fifty thousand dollars (\$50,000) unless the contract covers the following, in which case the provider shall deposit one hundred thousand dollars (\$100,000):

(1) a motor vehicle; and

(2) mechanical, plumbing and electrical systems and appliances at a residential dwelling when the service contract was sold in conjunction with the sale of the residential dwelling.

C. Deposits required pursuant to Subsection B of this section shall be:

(1) a surety bond issued by a surety company authorized to do business in New Mexico on a form acceptable to the superintendent;

(2) securities of the type eligible for deposit by an insurance company; or

(3) a clean and irrevocable letter of credit issued by a financial institution acceptable to the superintendent.

D. Additional financial security may be required of any provider when it is determined by the superintendent that an additional deposit is necessary for the protection of the public.

E. The provisions of this section shall not apply to major manufacturing companies' service contracts."

## **Chapter 282 Section 14 Laws 2007**

Section 14. TEMPORARY PROVISION--RECOMPILATION.--The compiler shall recompile Section 8-8-9.2 NMSA 1978 (being Laws 2003, Chapter 235, Section 3) as part of the New Mexico Insurance Code.

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Senate Bill 350, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 283**

AN ACT

RELATING TO INSURANCE; PROVIDING FOR TRAINING OF A LICENSEE'S EMPLOYEES; PROVIDING FOR CONDUCT ATTRIBUTABLE TO THE LICENSEE; DECLARING AN EMERGENCY.

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

## **Chapter 283 Section 1 Laws 2007**

Section 1. Section 59A-12-18 NMSA 1978 (being Laws 1984, Chapter 127, Section 219, as amended by Laws 2002, Chapter 24, Section 1 and by Laws 2002, Chapter 87, Section 1) is amended to read:

"59A-12-18. LIMITED LICENSE.--

A. The superintendent may issue a limited agent's license to:

(1) individual applicants qualified pursuant to Chapter 59A, Article 12 NMSA 1978 and employed as transportation ticket sellers by public carriers, who in the course of such employment solicit or sell insurance incidental to transportation of

persons or storage or transportation of baggage, provided that the license is limited to that insurance; or

(2) 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 or health insurance under individual policies is customarily required of or offered to the purchaser or borrower, covering only that credit life and health insurance.

B. The superintendent may issue a limited agent's license to applicants who are retail vendors or lessors of communication equipment or services. The license shall authorize the licensee, in connection with the lease, retail sale or provision of communication equipment or communication services for communication equipment, to sell insurance covering the loss, theft, mechanical failure or malfunction of or damage to the communication equipment. The licensee shall provide for the training of its employees who are authorized to sell that insurance. The conduct of the licensee's business under the limited license by its employees shall be attributed to the licensee. As used in this subsection, "communication equipment" means handsets, pagers, personal digital assistants, portable computers, automatic answering devices, batteries and other devices or their accessories used to originate or receive communication signals or service, and includes services related to the use of such devices such as access to a network.

C. No holder of a limited license issued pursuant to Subsection A of this section shall concurrently be otherwise licensed under the Insurance Code."

## **Chapter 283 Section 2 Laws 2007**

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 993, as amended

with emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 284**

AN ACT

RELATING TO INSTRUCTIONAL MATERIALS; REQUIRING LOCAL POLICIES THAT PROVIDE TEXTBOOKS TO EACH STUDENT FOR EACH CLASS THAT CONFORM

TO CURRICULUM REQUIREMENTS AND THAT ALLOW STUDENTS TO TAKE THOSE TEXTBOOKS HOME.

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

### **Chapter 284 Section 1 Laws 2007**

Section 1. Section 22-15-9 NMSA 1978 (being Laws 1967, Chapter 16, Section 213, as amended) is amended to read:

#### "22-15-9. DISTRIBUTION OF FUNDS FOR INSTRUCTIONAL MATERIAL.--

A. On or before April 1 of each year, the department shall allocate to each school district, state institution or private school not less than ninety percent of its estimated entitlement as determined from the estimated forty-day membership for the next school year. A school district's, state institution's or private school's entitlement is that portion of the total amount of the annual appropriation less a deduction for a reasonable reserve for emergency expenses that its forty-day membership bears to the forty-day membership of the entire state. For the purpose of this allocation, additional pupils shall be counted as six pupils. The allocation for adult basic education shall be based on a full-time equivalency obtained by multiplying the total previous year's enrollment by .25.

B. On or before January 15 of each year, the department shall recompute each entitlement using the forty-day membership for that year, except for adult basic education, and shall allocate the balance of the annual appropriation adjusting for any over- or under-estimation made in the first allocation.

C. An amount not to exceed fifty percent of the allocations attributed to each school district, state institution or adult basic education center may be used for instructional material not included on the multiple list provided for in Section 22-15-8 NMSA 1978. The local superintendent may apply to the department for a waiver of the use of funds allocated for the purchase of instructional material either included or not included on the multiple list. If the waiver is granted, the school district shall not be required to submit a budget adjustment request to the department. Adult basic education centers may expend up to one hundred percent of their instructional material funds for items that are not on the multiple list.

D. The department shall establish procedures for the distribution of funds directly to school districts, state institutions and adult basic education centers. Prior to the final distribution of funds to any school district or charter school, the department shall verify that the local school board or governing body has adopted a policy that requires that every student have a textbook for each class that conforms to curriculum requirements and that allows students to take those textbooks home.

E. The department shall provide payment to a publisher or depository on behalf of a private school for instructional material included on the multiple list provided for in Section 22-15-8 NMSA 1978.

F. A school district, state institution or adult basic education center that has funds remaining for the purchase of instructional material at the end of the fiscal year shall retain those funds for expenditure in subsequent years. Any balance remaining in an instructional material account of a private school at the end of the fiscal year shall remain available for reimbursement by the department for instructional material purchases in subsequent years."

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Senate Bill 1019

Approved April 2, 2007

## **LAWS 2007, CHAPTER 285**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; ALLOWING INSTRUCTIONAL MATERIAL FUNDS TO BE USED FOR MATERIALS OTHER THAN TEXTBOOKS.

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

### **Chapter 285 Section 1 Laws 2007**

Section 1. Section 22-15-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 206, as amended) is amended to read:

"22-15-2. DEFINITIONS.--As used in the Instructional Material Law:

A. "division" or "bureau" means the instructional material bureau of the department;

B. "director" or "chief" means the chief of the bureau;

C. "instructional material" means school textbooks and other educational media that are used as the basis for instruction, including combinations of textbooks, learning kits, supplementary material and electronic media;

D. "multiple list" means a written list of those instructional materials approved by the department;

E. "membership" means the total enrollment of qualified students on the fortieth day of the school year entitled to the free use of instructional material pursuant to the Instructional Material Law;

F. "additional pupil" means a pupil in a school district's, state institution's or private school's current year's certified forty-day membership above the number certified in the school district's, state institution's or private school's prior year's forty-day membership;

G. "school district" includes state-chartered charter schools; and

H. "other classroom materials" means materials other than textbooks that are used to support direct instruction to students."

## **Chapter 285 Section 2 Laws 2007**

Section 2. Section 22-15-9 NMSA 1978 (being Laws 1967, Chapter 16, Section 213, as amended) is amended to read:

"22-15-9. DISTRIBUTION OF FUNDS FOR INSTRUCTIONAL MATERIAL.--

A. On or before April 1 of each year, the department shall allocate to each school district, state institution or private school not less than ninety percent of its estimated entitlement as determined from the estimated forty-day membership for the next school year. A school district's, state institution's or private school's entitlement is that portion of the total amount of the annual appropriation less a deduction for a reasonable reserve for emergency expenses that its forty-day membership bears to the forty-day membership of the entire state. For the purpose of this allocation, additional pupils shall be counted as six pupils. The allocation for adult basic education shall be based on a full-time equivalency obtained by multiplying the total previous year's enrollment by .25.

B. On or before January 15 of each year, the department shall recompute each entitlement using the forty-day membership for that year, except for adult basic education, and shall allocate the balance of the annual appropriation adjusting for any over- or under-estimation made in the first allocation.

C. An amount not to exceed fifty percent of the allocations attributed to each school district, state institution or adult basic education center may be used for instructional material not included on the multiple list provided for in Section 22-15-8 NMSA 1978, and up to twenty-five percent of this amount may be used for other classroom materials. The local superintendent may apply to the department for a waiver of the use of funds allocated for the purchase of instructional material either included or not included on the multiple list. If the waiver is granted, the school district shall not be required to submit a budget adjustment request to the department. Adult basic education centers may expend up to one hundred percent of their instructional material funds for items that are not on the multiple list.

D. The department shall establish procedures for the distribution of funds directly to school districts, state institutions and adult basic education centers. The department shall provide payment to a publisher or depository on behalf of a private school for instructional material included on the multiple list provided for in Section 22-15-8 NMSA 1978.

E. A school district, state institution or adult basic education center that has funds remaining for the purchase of instructional material at the end of the fiscal year shall retain those funds for expenditure in subsequent years. Any balance remaining in an instructional material account of a private school at the end of the fiscal year shall remain available for reimbursement by the department for instructional material purchases in subsequent years."

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Senate Education Committee Substitute

for Senate Bill 1225, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 286**

### **AN ACT**

RELATING TO THE TOURISM DEPARTMENT; CREATING THE SPORTS AUTHORITY DIVISION OF THE TOURISM DEPARTMENT; DEFINING ITS POWERS AND DUTIES; CONFORMING THE LAW TO THE CURRENT STRUCTURE OF THE TOURISM DEPARTMENT; REPEALING THE NEW MEXICO SPORTS AUTHORITY ACT.

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

### **Chapter 286 Section 1 Laws 2007**

Section 1. Section 9-15A-3 NMSA 1978 (being Laws 1991, Chapter 21, Section 3, as amended) is amended to read:

"9-15A-3. DEPARTMENT ESTABLISHED.--The "tourism department" is created in the executive branch. The department shall be a cabinet department and shall consist of, but not be limited to, six divisions as follows:

- A. the promotion division;
- B. the New Mexico magazine division;

- C. the sports authority division;
- D. the tourism development division;
- E. the marketing division; and
- F. the administrative services division."

## **Chapter 286 Section 2 Laws 2007**

Section 2. A new section of the Tourism Department Act is enacted to read:

"DUTIES OF THE SPORTS AUTHORITY DIVISION.--

A. The sports authority division of the department shall:

(1) develop an overall strategic plan for recruiting and retaining all forms of professional and amateur sporting events;

(2) identify existing infrastructure for sporting activities, identify and propose future infrastructure and locations and identify opportunities for private and public partnerships on infrastructure;

(3) foster relationships between sporting event organizers and event sponsors;  
and

(4) foster relationships among state and local agencies and provide advice and direction needed to increase the number and quality of sporting events held in New Mexico.

B. The sports authority division may promulgate rules as necessary to:

(1) provide additional professional and amateur sports participation by New Mexico residents;

(2) provide for the welfare of participants in sporting events;

(3) provide for adequate safety measures for and ethical operation of sporting events;

(4) recruit and maintain professional and amateur sporting events to be held in New Mexico; and

(5) address the fiscal and tax implications of Paragraphs (1) through (4) of this subsection."

## **Chapter 286 Section 3 Laws 2007**

Section 3. A new section of the Tourism Department Act is enacted to read:

"SPORTS ADVISORY COMMITTEE.--

A. The "sports advisory committee" is created to advise and support the sports authority division of the department.

B. The sports advisory committee consists of twenty-five members of the public appointed by the governor and six ex-officio voting members as follows:

- (1) the superintendent of regulation and licensing;
- (2) the secretary of economic development;
- (3) the secretary of tourism;
- (4) the secretary of taxation and revenue;
- (5) the chief counsel to the governor; and
- (6) the governor's deputy chief of staff for legislative affairs.

C. An ex-officio member may designate in writing another person to attend meetings of the committee and to the same extent and with the same effect act in the ex-officio member's stead.

D. Public members shall be appointed for four-year terms expiring on January 1 and shall serve at the pleasure of the governor. Members serve until their successors have been appointed and qualified. The governor may fill any vacancies on the committee for the remainder of an unexpired term.

E. The committee shall have two co-chairs appointed by the governor, one of whom shall be an ex-officio member and one of whom shall be a public member. The committee may elect such other officers as it deems necessary to carry out its duties.

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

G. Representation on the committee shall resemble the demographics of New Mexico in conjunction with the three congressional districts."

## **Chapter 286 Section 4 Laws 2007**

Section 4. TEMPORARY PROVISION--TRANSFER OF PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On the effective date of this act:

A. all functions, personnel, appropriations, money, records, equipment, supplies and other property of the New Mexico sports authority shall be transferred to the sports authority division of the tourism department;

B. all contracts of the New Mexico sports authority shall be binding and effective on the sports authority division of the tourism department; and

C. all references in law to the New Mexico sports authority shall be deemed to be references to the sports authority division of the tourism department.

## **Chapter 286 Section 5 Laws 2007**

Section 5. REPEAL.--Sections 9-15B-1 through 9-15B-6 NMSA 1978 (being Laws 2005, Chapter 197, Sections 1 through 6) are repealed.

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House Bill 890, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 287**

AN ACT

RELATING TO THE TOURISM DEPARTMENT; CREATING THE SPORTS AUTHORITY DIVISION OF THE TOURISM DEPARTMENT; DEFINING ITS POWERS AND DUTIES; CONFORMING THE LAW TO THE CURRENT STRUCTURE OF THE TOURISM DEPARTMENT; REPEALING THE NEW MEXICO SPORTS AUTHORITY ACT.

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

## **Chapter 287 Section 1 Laws 2007**

Section 1. Section 9-15A-3 NMSA 1978 (being Laws 1991, Chapter 21, Section 3, as amended) is amended to read:

"9-15A-3. DEPARTMENT ESTABLISHED.--The "tourism department" is created in the executive branch. The department shall be a cabinet department and shall consist of, but not be limited to, six divisions as follows:

- A. the promotion division;
- B. the New Mexico magazine division;
- C. the sports authority division;
- D. the tourism development division;
- E. the marketing division; and
- F. the administrative services division."

## **Chapter 287 Section 2 Laws 2007**

Section 2. A new section of the Tourism Department Act is enacted to read:

"DUTIES OF THE SPORTS AUTHORITY DIVISION.--

A. The sports authority division of the department shall:

(1) develop an overall strategic plan for recruiting and retaining all forms of professional and amateur sporting events;

(2) identify existing infrastructure for sporting activities and identify opportunities for private and public partnerships on infrastructure;

(3) foster relationships between sporting event organizers and event sponsors; and

(4) foster relationships among state and local agencies and provide advice and direction needed to increase the number and quality of sporting events held in New Mexico.

B. The sports authority division may promulgate rules as necessary to:

(1) provide additional professional and amateur sports participation by New Mexico residents;

(2) provide for the welfare of participants in sporting events;

(3) provide for adequate safety measures for and ethical operation of sporting events;

(4) recruit and maintain professional and amateur sporting events to be held in New Mexico; and

(5) address the fiscal and tax implications of Paragraphs (1) through (4) of this subsection."

## **Chapter 287 Section 3 Laws 2007**

Section 3. A new section of the Tourism Department Act is enacted to read:

"SPORTS ADVISORY COMMITTEE.--

A. The "sports advisory committee" is created to advise and support the sports authority division of the department.

B. The sports advisory committee consists of twenty-five members of the public appointed by the governor and six ex-officio voting members as follows:

- (1) the superintendent of regulation and licensing;
- (2) the secretary of economic development;
- (3) the secretary of tourism;
- (4) the secretary of taxation and revenue;
- (5) the chief counsel to the governor; and
- (6) the governor's deputy chief of staff for legislative affairs.

C. An ex-officio member may designate in writing another person to attend meetings of the committee and to the same extent and with the same effect act in the ex-officio member's stead.

D. Public members shall be appointed for four-year terms expiring on January 1 and shall serve at the pleasure of the governor. Members serve until their successors have been appointed and qualified. The governor may fill any vacancies on the committee for the remainder of an unexpired term.

E. The committee shall have two co-chairs appointed by the governor, one of whom shall be an ex-officio member and one of whom shall be a public member. The committee may elect such other officers as it deems necessary to carry out its duties.

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

G. Representation on the committee shall resemble the demographics of New Mexico in conjunction with the three congressional districts."

## **Chapter 287 Section 4 Laws 2007**

Section 4. TEMPORARY PROVISION--TRANSFER OF PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On the effective date of this act:

A. all functions, personnel, appropriations, money, records, equipment, supplies and other property of the New Mexico sports authority shall be transferred to the sports authority division of the tourism department;

B. all contracts of the New Mexico sports authority shall be binding and effective on the sports authority division of the tourism department; and

C. all references in law to the New Mexico sports authority shall be deemed to be references to the sports authority division of the tourism department.

## **Chapter 287 Section 5 Laws 2007**

Section 5. REPEAL.--Sections 9-15B-1 through 9-15B-6 NMSA 1978 (being Laws 2005, Chapter 197, Sections 1 through 6) are repealed.

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Senate Bill 215, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 288**

AN ACT

RELATING TO ADMINISTRATION OF GOVERNMENT; PROVIDING FOR THE GENERAL SERVICES DEPARTMENT'S AUTHORITY TO PROVIDE TELECOMMUNICATIONS SERVICES.

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

## **Chapter 288 Section 1 Laws 2007**

Section 1. A new section of Chapter 15 NMSA 1978 is enacted to read:

"TELECOMMUNICATIONS SERVICES--SCOPE AND CONDITIONS.--In providing telecommunications services pursuant to Chapter 15 NMSA 1978, the telecommunications bureau of the communications division of the general services department shall not provide telecommunications services, including telephone, data

and broadband services, to any entity other than those authorized pursuant to Section 15-5-1 NMSA 1978, except for telecommunications services that are necessary to facilitate state-mandated programs, such as distance education, telehealth or school-based health center programs. Before expansion or upgrade of the state-owned or state-funded telecommunications network, or creation of any additional state telecommunications network, whether voice, data or video transmission, the general services department shall prepare an agency plan consistent with state law and applicable regulations. The agency plan shall include those components set forth in Section 15-1C-8 NMSA 1978 and shall also include an assessment of how the project would potentially affect local telecommunications service providers and telecommunications service ratepayers."

## **Chapter 288 Section 2 Laws 2007**

Section 2. Section 15-2-2.1 NMSA 1978 (being Laws 1997, Chapter 263, Section 1) is amended to read:

"15-2-2.1. LEASE OF RADIO COMMUNICATIONS NETWORK--CONDITIONS AND REQUIREMENTS.--In exercising supervisory control pursuant to Section 15-2-2 NMSA 1978, the radio communications bureau of the communications division of the general services department may lease to a private entity excess capacity on its radio communications property, including buildings, towers or antennas, provided that:

A. the lease conforms with competitive procurement requirements of the Procurement Code;

B. the lease is for an equal value exchange of money or property;

C. the secretary of general services certifies that the excess capacity will be available for at least the duration of the lease;

D. if the lease exceeds ten years, the lease is first approved by the state board of finance;

E. the radio communications bureau has submitted to the legislative finance committee a detailed plan for the use of excess capacity being leased and an assessment of how the lease will affect public sector uses and local telecommunications service providers; and

F. income from the leases shall be deposited to the credit of the radio communications bureau and used to carry out the duties of the bureau."

## **Chapter 288 Section 3 Laws 2007**

Section 3. Section 15-5-1 NMSA 1978 (being Laws 1978, Chapter 124, Section 11, as amended) is amended to read:

"15-5-1. TELECOMMUNICATIONS BUREAU CREATED--DUTIES.--

A. The "telecommunications bureau" is created within the communications division of the general services department.

B. The telecommunications bureau shall enter into necessary agreements to provide, where feasible, a central telephone system, including wide-area telephone service, and related facilities to all executive, legislative, judicial, institutional and other state governmental offices located in the state of New Mexico.

C. As used in this section, "executive, legislative, judicial, institutional and other state governmental offices" means any of the branches, agencies, departments, institutions or boards of the state of New Mexico, but does not include a municipality, county, school district or two-year public post-secondary educational institution."

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House Health and Government Affairs Committee

Substitute for House Bill 75, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 289**

### **AN ACT**

RELATING TO THE INFORMATION TECHNOLOGY COMMISSION; ADDING TWO LOCAL GOVERNMENT REPRESENTATIVES AND TWO LOCAL TELECOMMUNICATIONS SERVICE PROVIDER REPRESENTATIVES TO THE COMMISSION.

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

### **Chapter 289 Section 1 Laws 2007**

Section 1. Section 15-1C-4 NMSA 1978 (being Laws 1999, Chapter 16, Section 4, as amended by Laws 2003, Chapter 49, Section 4 and by Laws 2003, Chapter 308, Section 4) is amended to read:

"15-1C-4. COMMISSION CREATED--MEMBERSHIP.--

A. The "information technology commission" is created. The commission consists of seventeen members as follows:

(1) five members appointed by the governor, three of whom are from agencies whose primary funding is not from internal service funds;

(2) one staff member with telecommunications regulatory experience appointed by the chair of the public regulation commission;

(3) two members representing education, one appointed by the secretary of higher education and one appointed by the secretary of public education;

(4) two members from the national laboratories;

(5) three members appointed by the governor to represent the public with information technology and management experience, but who are not employees of the state or a political subdivision of the state and who do not have any financial interest in the state information systems or state contracts. The public members shall serve for staggered three-year terms;

(6) two members appointed by the governor to represent local government, one appointment to be selected by the governor from a list of three names provided by the New Mexico association of counties and one appointment to be selected by the governor from a list of three names provided by the New Mexico municipal league; and

(7) two members appointed by the governor to represent local telecommunications service providers.

B. Additionally, the following advisory members may serve on the commission:

(1) two members from the judicial information systems council appointed by the chair of that council;

(2) one staff member from the legislative council service and one staff member from the legislative finance committee, appointed by their respective directors; and

(3) the chief information officer.

C. Members of the commission, except the three public members appointed by the governor, may select designees to represent them and vote on their behalf.

D. The members of the commission who are not supported by public money, or their designees, may receive per diem and mileage pursuant to the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance.

E. The commission shall elect a chair and vice chair from the active membership of the commission for

two-year terms.

F. The commission shall meet at least semiannually and may meet at the call of the chair or a majority of the members."

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Senate Bill 541, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 290**

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; CREATING THE DEPARTMENT OF INFORMATION TECHNOLOGY; PROVIDING POWERS AND DUTIES; APPROVING TRANSFERS OF FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS AND PROPERTY; REPEALING THE INFORMATION TECHNOLOGY MANAGEMENT ACT.

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

### **Chapter 290 Section 1 Laws 2007**

Section 1. SHORT TITLE.--Sections 1 through 9 of this act may be cited as the "Department of Information Technology Act".

### **Chapter 290 Section 2 Laws 2007**

Section 2. PURPOSE.--The purpose of the Department of Information Technology Act is to create a single, unified executive branch department to administer all laws and exercise all functions formerly administered by the office of the chief information officer, the information technology commission, pursuant to the Information Technology Management Act, and the communications division, information systems division, radio communications bureau and telecommunications bureau of the general services department to consolidate enterprise information technology services duplicated within executive agencies and provide additional information technology services and functionality to improve and streamline the executive branch's information technology systems.

### **Chapter 290 Section 3 Laws 2007**

Section 3. DEFINITIONS.--As used in the Department of Information Technology Act:

A. "department" means the department of information technology;

B. "information technology" means computer hardware and software and ancillary products and services, including:

(1) systems design and analysis;

(2) acquisition, storage and conversion of data;

(3) computer programming;

(4) information storage and retrieval;

(5) voice, radio, video and data communications;

(6) requisite systems;

(7) simulation and testing; and

(8) related interactions between users and information systems;

C. "information technology project" means the purchase, replacement, development or modification of a hardware or software system;

D. "secretary" means the secretary of information technology;

E. "state information architecture" means a logically consistent set of principles, policies and standards that guides the engineering of state government's information technology systems and infrastructure in a way that ensures alignment with state government's business needs; and

F. "state information technology strategic plan" means the information technology planning document for the state that spans a three-year period.

## **Chapter 290 Section 4 Laws 2007**

### **Section 4. DEPARTMENT CREATED--DIVISIONS.--**

A. The "department of information technology" is created. The department is a cabinet department and includes the following divisions:

(1) program support division;

(2) compliance and project management division; and

(3) enterprise services division.

B. The secretary may organize the department and the divisions specified in Subsection A of this section and may transfer or merge functions between divisions in the interest of efficiency and economy.

## **Chapter 290 Section 5 Laws 2007**

### **Section 5. SECRETARY OF INFORMATION TECHNOLOGY--APPOINTMENT.--**

A. The chief executive and administrative officer of the department is the "secretary of information technology". The secretary shall serve as the state's chief information officer. The secretary shall be appointed by the governor with the consent of the senate. The secretary shall hold that office at the pleasure of the governor and shall serve in the executive cabinet.

B. An appointed secretary shall serve and have all of the duties, responsibilities and authority of that office during the period of time prior to final action by the senate confirming or rejecting the secretary-designate's appointment.

## **Chapter 290 Section 6 Laws 2007**

### **Section 6. SECRETARY--DUTIES AND GENERAL POWERS.--**

A. The secretary is responsible to the governor for the operation of the department. It is the secretary's duty to manage all operations of the department and to administer and enforce the laws with which the secretary or the department is charged.

B. To perform the secretary's duties, the secretary has every power expressly enumerated in the laws, whether granted to the secretary or the department or any division of the department, except where authority conferred upon any division is explicitly exempted from the secretary's authority by statute. In accordance with these provisions, the secretary shall:

(1) exercise general supervisory and appointing authority over all department employees, subject to any applicable personnel laws and regulations;

(2) delegate authority to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto;

(3) organize the department into those organizational units the secretary deems will enable it to function most efficiently, subject to provisions of law requiring or establishing specific organizational units;

(4) within the limitations of available appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge the secretary's duties;

(5) take administrative action by issuing orders and instructions, not inconsistent with the law, to ensure implementation of and compliance with the provisions of law for whose administration or execution the secretary is responsible and to enforce those orders and instructions by appropriate administrative action in the courts;

(6) conduct research and studies that will improve the operations of the department and the provision of services to executive agencies and the residents of the state;

(7) provide courses of instruction and practical training for employees of the department and other persons involved in the administration of programs with the objective of improving the operations and efficiency of administration;

(8) prepare an annual budget of the department;

(9) provide cooperation, at the request of heads of administratively attached agencies, in order to:

(a) minimize or eliminate duplication of services and jurisdictional conflicts;

(b) coordinate activities and resolve problems of mutual concern; and

(c) resolve by agreement the manner and extent to which the department shall provide budgeting, record-keeping and related clerical assistance to administratively attached agencies; and

(10) appoint for each division a "director". These appointed positions are exempt from the provisions of the Personnel Act. Persons appointed to these positions shall serve at the pleasure of the secretary.

C. As the chief information officer, the secretary shall:

(1) review executive agency plans regarding prudent allocation of information technology resources; reduction of data, hardware and software redundancy; and improvement of system interoperability and data accessibility among agencies;

(2) approve executive agency information technology requests for proposals and contract vendor requests that are subject to the Procurement Code, prior to final approval;

(3) promulgate rules for oversight of information technology procurement;

(4) approve executive agency information technology contracts and amendments to those contracts, including emergency procurements, sole source

contracts and price agreements, prior to approval by the department of finance and administration;

(5) develop and implement procedures to standardize data elements, determine data ownership and ensure data sharing among executive agencies;

(6) verify compliance with state information architecture and the state information technology strategic plan before approving documents referred to in Paragraphs (2) and (4) of this subsection;

(7) monitor executive agency compliance with its agency plan, the state information technology strategic plan and state information architecture and report to the governor, executive agency management and the legislative finance committee on noncompliance;

(8) develop information technology cost recovery mechanisms and information systems rate and fee structures of executive agencies and other public or private sector providers and make recommendations to the information technology rate committee;

(9) provide technical support to executive agencies in the development of their agency plans;

(10) ensure the use of existing public or private information technology or telecommunications resources when the use is practical, efficient, effective and financially prudent;

(11) review appropriation requests related to executive agency information technology requests to ensure compliance with agency plans and the state information technology strategic plan and make written recommendations to the department of finance and administration, the legislative finance committee, the appropriate interim legislative committee and the information technology commission;

(12) establish rules to ensure that information technology projects satisfy criteria established by the secretary and are phased in with funding released in phases contingent upon successful completion of the prior phase;

(13) provide oversight of information technology projects, including ensuring adequate risk management, disaster recovery and business continuity practices and monitoring compliance with strategies recommended by the information technology commission for information technology projects that impact multiple agencies; and

(14) perform any other information technology function assigned by the governor.

D. Each executive agency shall submit an agency information technology plan to the secretary in the form and detail required by the secretary.

E. The secretary, as chief information officer, shall prepare a state information technology strategic plan for the executive branch. The plan shall comply with the provisions of the Department of Information Technology Act and provide for the:

(1) interchange of information related to information technology among executive agencies;

(2) coordination among executive agencies in the development and maintenance of information technology systems; and

(3) protection of the privacy and security of individual information as well as of individuals using the state's information technology systems.

F. The secretary may apply for and receive, with the governor's approval, in the name of the department, any public or private funds, including United States government funds, available to the department to carry out its programs, duties or services.

G. Where information technology functions of executive agencies overlap or a function assigned to one agency could better be performed by another agency, the secretary may recommend appropriate legislation to the next session of the legislature for its approval.

H. The secretary may make and adopt such reasonable procedural rules as may be necessary to carry out the duties of the department and its divisions and requirements and standards for the executive branch's information technology needs, functions, systems and resources, including:

(1) information technology security;

(2) approval for procurement of information technology that exceeds an amount set by rule;

(3) detail and format for the agency information technology plan;

(4) acquisition, licensing and sale of information technology; and

(5) requirements for agency information technology projects and related plan, analysis, oversight, assessment and specifications.

I. Unless otherwise provided by statute, no rule affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the secretary or a hearing officer designated by the

secretary. The public hearing shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the rule, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed rule, proposed amendment or repeal of an existing rule may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for an advance notice of hearing. Rules shall be filed in accordance with the State Rules Act.

## **Chapter 290 Section 7 Laws 2007**

Section 7. INFORMATION TECHNOLOGY RATE COMMITTEE--MEMBERSHIP--DUTIES.--

A. The "information technology rate committee" is created. The committee consists of seven members as follows:

(1) five members appointed by the governor from executive agencies that use information technology services and pay rates to an internal service fund;

(2) the secretary of finance and administration, who shall serve as chair of the committee; and

(3) the secretary of information technology.

B. The information technology rate committee shall:

(1) review the rate and fee schedule proposed by the secretary;

(2) propose an equitable rate and fee schedule based on cost recovery for executive agencies that use information technology services and pay rates to an internal service fund, with priority service to public safety agencies;

(3) present the committee's proposed rate and fee schedule to the office of the governor, the department of finance and administration and the legislative finance committee; and

(4) by July 15 of each year, implement a rate and fee schedule based on the committee's recommendations and input from the office of the governor, the department of finance and administration and the legislative finance committee.

## **Chapter 290 Section 8 Laws 2007**

Section 8. ORGANIZATIONAL UNITS OF THE DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--Those organizational units of the department and the officers of those units specified by law shall have all of

the powers and duties enumerated in the specific laws involved. However, the carrying out of those powers and duties shall be subject to the direction and supervision of the secretary, who shall retain the final decision-making authority and responsibility for the administration of any such laws. The department shall have access to all information technology records, data and information of other executive branch departments, agencies and institutions, including its own organizational units, not specifically held confidential by law.

## **Chapter 290 Section 9 Laws 2007**

### **Section 9. INFORMATION TECHNOLOGY COMMISSION--CREATION-- POWERS AND DUTIES.--**

A. The "information technology commission" is created. The commission consists of seventeen voting members as follows:

(1) five members appointed by the governor, three of whom are from agencies whose primary funding is not from internal service funds;

(2) one staff member with telecommunications regulatory experience appointed by the chair of the public regulation commission;

(3) two members representing education, one appointed by the secretary of higher education and one appointed by the secretary of public education;

(4) two members appointed by the governor to represent local government, one appointment to be selected by the governor from a list of three names provided by the New Mexico association of counties and one appointment to be selected by the governor from a list of three names provided by the New Mexico municipal league;

(5) two members appointed by the governor to represent local telecommunications service providers;

(6) two members from the national laboratories appointed by the respective laboratory director; and

(7) three members, one from each congressional district, appointed by the governor to represent the public with information technology and management experience, but who are not employees of the state or a political subdivision of the state and who do not have any financial interest in the state information systems or state contracts. The public members shall serve for staggered three-year terms.

B. Additionally, the following nonvoting members may serve on the commission:

(1) two members from the judicial information systems council appointed by the chair of that council;

(2) one member representing the office of the attorney general appointed by the attorney general;

(3) two members representing local government, one appointed by the New Mexico association of counties and one appointed by the New Mexico municipal league, provided that the members are not from the same or adjacent counties;

(4) one staff member from the legislative council service and one staff member from the legislative finance committee, appointed by their respective directors; and

(5) the secretary as chief information officer.

C. Members of the commission, except the three public members appointed by the governor, may select designees to represent them and vote on their behalf.

D. The members of the commission who are not supported by public money, or their designees, may receive per diem and mileage pursuant to the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance.

E. The commission shall elect a chair and vice chair from the active voting membership of the commission for two-year terms.

F. The department shall provide staff to the commission.

G. The commission shall meet at least quarterly to review and approve:

(1) the development and implementation of the state information technology strategic plan;

(2) critical information technology initiatives for the state;

(3) identification of information technology needs of state agencies;

(4) strategies for identifying information technology projects that impact multiple agencies;

(5) the state information architecture and the state information technology strategic plan for updates and compliance by executive agencies;

(6) proposed rules by the secretary; and

(7) guidelines for mediation of disputes between an executive agency and the secretary as chief information officer.

## **Chapter 290 Section 10 Laws 2007**

Section 10. Section 9-17-3 NMSA 1978 (being Laws 1983, Chapter 301, Section 3, as amended) is amended to read:

"9-17-3. GENERAL SERVICES DEPARTMENT--CREATION--TRANSFER AND MERGER OF DIVISION FUNCTIONS--MERGER AND CREATION OF DIVISIONS.--

A. The "general services department" is created. The department shall consist of those divisions created by law or executive order, as modified by executive order pursuant to Subsection C of this section, including:

- (1) the administrative services division;
- (2) the building services division;
- (3) the property control division;
- (4) the purchasing division;
- (5) the risk management division; and
- (6) the transportation services division.

B. The secretary of general services is empowered to organize the department and the divisions specified in Subsection A of this section and may transfer or merge functions between divisions in the interest of efficiency and economy.

C. The governor is empowered to merge divisions of the department or to create additional divisions by executive order in the interest of efficiency or economy."

## **Chapter 290 Section 11 Laws 2007**

Section 11. Section 12-12-21 NMSA 1978 (being Laws 1983, Chapter 80, Section 5, as amended) is amended to read:

"12-12-21. STATE POLICE EMERGENCY RESPONSE OFFICER--PROCEDURE FOR NOTIFICATION--COOPERATION OF OTHER STATE AGENCIES AND LOCAL GOVERNMENTS.--

A. The secretary, in addition to having final authority to administer the provisions of the Emergency Management Act, shall be responsible for central coordination and communication in the event of an accident.

B. The chief shall designate one or more persons to be known as "state police emergency response officers". A state police emergency response officer shall be trained in accident evaluation and emergency response and shall be available to answer an emergency response call from the first responder.

C. In the event of an accident, if the first responder is a law enforcement officer, the officer shall immediately notify the state police district emergency response officer in the officer's area, who shall in turn immediately notify the state police emergency response center. If the first responder is a person with radio capability tied into radio communications protocol or reporting structure with the department of information technology, the person shall immediately notify Santa Fe control, who shall in turn immediately notify the state police emergency response center. The state police emergency response center shall:

(1) evaluate and determine the scope of the accident based on information provided by the first responder;

(2) instruct the first responder on how to proceed at the accident scene;

(3) immediately notify the appropriate responsible state agency and advise it of the necessary response;

(4) notify the sheriff or chief of police in whose jurisdiction the accident occurred; and

(5) coordinate field communications and summon additional resources requested by the emergency management team.

D. The responsible state agencies shall be:

(1) the New Mexico state police division of the department of public safety for coordination, law enforcement and traffic and crowd control;

(2) the department of environment for assistance with accidents involving hazardous materials or hazardous substances;

(3) the state fire marshal's office for assistance with any accident involving hazardous materials;

(4) the injury prevention and emergency medical services bureau of the public health division of the department of health for assistance with accidents involving casualties;

(5) the emergency planning and coordination bureau of the department of public safety and the department of military affairs for assistance with accidents that

require the evacuation of the vicinity of the accident or the use of the national guard of New Mexico; and

(6) the department of transportation for assistance with road closures, designating alternate routes and related services.

E. Other state agencies and local governments shall assist the responsible state agencies when requested to do so.

F. Any driver of a vehicle carrying hazardous materials involved in an accident that may cause injury to persons or property or any owner, shipper or carrier of hazardous materials involved in an accident who has knowledge of such accident or any owner or person in charge of any building, premises or facility where such an accident occurs shall immediately notify the New Mexico state police division of the department of public safety by the quickest means of communication available."

## **Chapter 290 Section 12 Laws 2007**

Section 12. Section 12-12-22 NMSA 1978 (being Laws 1983, Chapter 80, Section 6, as amended) is amended to read:

"12-12-22. EMERGENCY MANAGEMENT TASK FORCE--CREATED--  
POWERS AND DUTIES.--

A. The "emergency management task force" is created, composed of:

(1) the chief or the chief's designee, who shall serve as vice chair of the task force;

(2) the state fire marshal or the fire marshal's designee;

(3) a staff member of the department of environment who is knowledgeable about radioactive materials, to be designated by the secretary of environment;

(4) a staff member of the department of environment who is knowledgeable about hazardous substances, to be designated by the secretary of environment;

(5) the director of the technical and emergency support division or the director's designee;

(6) the chief of the emergency medical services bureau or the chief's designee;

(7) the secretary of transportation or the secretary's designee;

(8) the chair of the public regulation commission or the chair's designee;

(9) a representative of the governor, to be appointed by the governor, who is not an employee of any agency represented on the task force and who shall serve as chair of the task force;

(10) the secretary of taxation and revenue or the secretary's designee;  
and

(11) the secretary of information technology or the secretary's designee.

B. The attorney general's office shall serve as attorney for the task force.

C. The task force shall, at the direction of the commission, develop and monitor a comprehensive plan, to include:

(1) procedures for initially assessing the scope and nature of an accident;

(2) procedures for notifying and assembling the proper emergency management team from the responsible state agencies;

(3) procedures for siting and operating an on-scene command post;

(4) an inventory and assessment of manpower, equipment and training within each responsible state agency as well as other state agencies and local governments and federal and private sources;

(5) an assessment of the adequacy and availability of training materials and facilities to train and cross-train emergency response teams and other persons involved in responding to an accident and an identification of training requirements to ensure that such persons are adequately trained;

(6) the development of training programs for emergency response teams and other persons involved in responding to an accident;

(7) procedures for decontamination of emergency management personnel and equipment as well as medical and other facilities that may be used in the management of the accident;

(8) identification of the medical resources in the state and the location of specialized medical facilities for use in medical emergencies;

(9) information and training programs for hospital emergency room personnel and doctors;

(10) procedures for accident assessment and record keeping;

(11) procedures for periodic emergency management preparedness exercises and testing of the plan;

(12) a designation of areas of responsibility in the emergency management plan, including but not limited to:

(a) command and control of the accident scene and overall responsibility and authority for all emergency response activity;

(b) public health and safety, including rescue operations, emergency medical services, evacuation and containment of the accident scene;

(c) sanitation and decontamination services at the accident scene;

(d) communications, including statewide and on-scene communications;

(e) public works and engineering;

(f) transportation;

(g) social services;

(h) accident assessment, investigation and record keeping;

(i) protective response, including hazardous materials exposure control;

(j) environmental monitoring, control and cleanup; and

(k) public information;

(13) criteria for determining when an accident may be handled by a local government;

(14) procedures for entering into cooperative agreements between the state and local governments and between the state and the federal government, Indian tribes and pueblos and bordering states pursuant to Section 12-12-20 NMSA 1978; and

(15) identification of information management resources necessary for effective emergency response activity.

D. The task force shall develop liaison with the trucking industry, the railroads and other areas of the private sector in the formulation of the plan."

## **Chapter 290 Section 13 Laws 2007**

Section 13. Section 15-2-1 NMSA 1978 (being Laws 1980, Chapter 151, Section 9, as amended) is amended to read:

**"15-2-1. TELECOMMUNICATIONS SERVICES.--**

A. The secretary of information technology may hire a communications engineer to oversee the engineering responsibilities of the department of information technology. The communications engineer shall have a degree in either electrical engineering with an electrical communications specialty or in electronics engineering.

B. In providing telecommunications services pursuant to Chapter 15 NMSA 1978, the department of information technology shall not provide telecommunications services, including telephone, data and broadband services, to an entity other than those authorized pursuant to Section 15-5-1 NMSA 1978, except as is necessary to facilitate a state-mandated program, including distance education, telehealth or school-based health center programs. Before expansion or upgrade of a state-owned or state-funded telecommunications network, whether voice, data or video transmission, the department shall prepare a plan consistent with state law and applicable rules that includes an assessment of how the project would potentially affect local telecommunications service providers and telecommunications service ratepayers."

## **Chapter 290 Section 14 Laws 2007**

Section 14. Section 15-2-2 NMSA 1978 (being Laws 1977, Chapter 247, Section 24, as amended) is amended to read:

"15-2-2. RADIO COMMUNICATIONS.--The department of information technology shall have supervisory control over all mobile or fixed radio equipment now owned or subsequently acquired by the executive branch or any state officer, department, other agency, board, commission, division or bureau of any executive state department or agency. This supervisory control shall include but not be limited to the determination of the need for, purchase, repair, maintenance, combination or disposition of radio equipment."

## **Chapter 290 Section 15 Laws 2007**

Section 15. Section 15-2-2.1 NMSA 1978 (being Laws 1997, Chapter 263, Section 1) is amended to read:

"15-2-2.1. LEASE OF RADIO COMMUNICATIONS NETWORK--CONDITIONS AND REQUIREMENTS.--In exercising supervisory control pursuant to Section 15-2-2 NMSA 1978, the department of information technology may lease to a private entity excess capacity relating to the provision of two-way radio services on its radio communications property, including buildings, towers or antennas, provided that:

A. the lease conforms with competitive procurement requirements of the Procurement Code;

B. the lease is for an equal value exchange of money or property;

C. the secretary of information technology certifies that the excess capacity will be available for at least the duration of the lease;

D. if the lease exceeds ten years, the lease is first approved by the state board of finance;

E. the department of information technology has submitted to the legislative finance committee a detailed plan for the use of excess capacity being leased and an assessment of how the lease will affect public sector uses and local telecommunication service providers; and

F. income from the leases shall be deposited to the credit of the department of information technology and used to carry out the duties of the department."

## **Chapter 290 Section 16 Laws 2007**

Section 16. Section 15-2-3 NMSA 1978 (being Laws 1970, Chapter 71, Section 1, as amended) is amended to read:

"15-2-3. SERVICE CHARGE.--

A. The department of information technology shall charge a fee to the state or any officer, agency, department, division, board or commission of the state for any services rendered in the exercise of its supervisory control.

B. Fees shall be fixed by the secretary of information technology.

C. Income from fees collected shall be deposited to the credit of the department of information technology and used to carry out the duties of the department.

D. The department of information technology may provide two-way radio services to counties and municipalities at the same rates charged state agencies."

## **Chapter 290 Section 17 Laws 2007**

Section 17. Section 15-2-4 NMSA 1978 (being Laws 1966, Chapter 32, Section 3, as amended) is amended to read:

"15-2-4. EXCLUSION FROM JURISDICTION.--The department of information technology shall not have supervisory control over:

A. the use of radio equipment, except as to the technical requirements of the equipment or unless the equipment is used by one or more agencies, and the department of information technology must determine priority of use;

B. the radio equipment of the department of military affairs, except the department of information technology may maintain all radio equipment owned by the department of military affairs that interfaces with state-owned radio equipment; or

C. unless otherwise directed by the secretary of information technology, radio equipment that is incidental to a system that is primarily a telephone system."

### **Chapter 290 Section 18 Laws 2007**

Section 18. Section 15-2-5 NMSA 1978 (being Laws 1971, Chapter 115, Section 2, as amended) is amended to read:

"15-2-5. PROPERTY TRANSFER.--Ownership of all radio communication property at mountaintop or remote sites, including buildings, towers, antennas, emergency power plants and radio equipment owned by the New Mexico state police, department of transportation, department of game and fish and forestry division of the energy, minerals and natural resources department, is transferred to the department of information technology."

### **Chapter 290 Section 19 Laws 2007**

Section 19. Section 15-2-8 NMSA 1978 (being Laws 1975, Chapter 214, Section 4, as amended) is amended to read:

"15-2-8. TRANSFER OF PROPERTY--CUSTODY AND CONTROL.--The radio equipment purchased in accordance with Laws 1972, Chapter 74 by the property control division of the general services department is transferred to the department of information technology. The department has the custody and control of the transferred radio equipment."

### **Chapter 290 Section 20 Laws 2007**

Section 20. Section 15-5-1 NMSA 1978 (being Laws 1978, Chapter 124, Section 11, as amended) is amended to read:

"15-5-1. TELECOMMUNICATIONS--DUTIES.--The department of information technology shall enter into necessary agreements to provide, where feasible, a central telephone system, including wide-area telephone service, and related facilities to all executive, legislative and judicial branches. Nothing in this section shall be construed to apply to the provision of a central telephone system and related facilities to political subdivisions of the state."

## **Chapter 290 Section 21 Laws 2007**

Section 21. Section 15-5-3 NMSA 1978 (being Laws 1963, Chapter 181, Section 3, as amended) is amended to read:

"15-5-3. CHARGES FOR CENTRAL TELEPHONE SERVICES.--Departments, institutions and agencies participating in the central telephone system shall be charged a pro rata and equitable share of the total monthly costs of the service. This determination is to be made by the department of information technology. Toll calls not covered by the wide-area telephone service and supplemental equipment shall be segregated and paid for by agencies, institutions and departments making the calls or using the supplemental equipment."

## **Chapter 290 Section 22 Laws 2007**

Section 22. Section 15-5-4 NMSA 1978 (being Laws 1963, Chapter 181, Section 4, as amended) is amended to read:

"15-5-4. DEPOSIT OF MONEY.--The department of information technology shall order the deposit or transfer monthly to a fund known as the "central telephone services fund" the amount of money owed by each department, institution and agency utilizing the central telephone system. State institutions and agencies shall adopt such accounting procedures as are prescribed by the department of finance and administration for the handling of payments with reference to the central telephone system."

## **Chapter 290 Section 23 Laws 2007**

Section 23. Section 22-15A-11 NMSA 1978 (being Laws 2005, Chapter 222, Section 2) is amended to read:

"22-15A-11. EDUCATIONAL TECHNOLOGY DEFICIENCIES--CORRECTION.--

A. No later than September 1, 2005, the bureau, with the advice of the council and the secretary of information technology, shall define and develop minimum educational technology adequacy standards to supplement the adequacy standards developed by the public school capital outlay council, for school districts to use to identify outstanding serious deficiencies in educational technology infrastructure.

B. A school district shall use the standards to complete a self-assessment of the outstanding educational technology deficiencies within the school district and provide cost projections to correct the outstanding deficiencies.

C. The bureau shall develop a methodology for prioritizing projects that will correct the deficiencies.

D. After a public hearing and to the extent that money is available in the educational technology deficiency correction fund, the bureau shall approve allocations from the fund on the established priority basis and, working with the school district and pursuant to the Procurement Code, enter into contracts to correct the deficiencies.

E. In entering into contracts to correct deficiencies pursuant to this section, the bureau shall include such terms and conditions as necessary to ensure that the state money is expended in the most prudent manner possible consistent with the original purpose."

## **Chapter 290 Section 24 Laws 2007**

Section 24. Section 29-15A-3 NMSA 1978 (being Laws 2003, Chapter 93, Section 3, as amended) is amended to read:

"29-15A-3. STATE POLICE--AMBER ALERT NOTIFICATION PLAN--  
DECLARATION OF AMBER ALERT.--

A. The state police shall develop and implement an AMBER alert notification plan for the purpose of disseminating, as rapidly as possible, information about a child abduction so that law enforcement agencies and citizens throughout the state may be aware and vigilant. The plan shall:

(1) provide a procedure for notifying the lead station by the authorized requester that an AMBER alert has been declared. The procedure shall include codes for use by the authorized requester in communicating with the lead station to prevent false alerts;

(2) provide a procedure in which other state and private print, radio, television or other media may alert the members of the public of the abduction;

(3) include a procedure for notifying the department of information technology that an AMBER alert has been declared. The department of information technology shall immediately transmit the notification and related information to all state field operations employees so that they may be aware and vigilant in the course of their regular activities;

(4) include a procedure for notifying a representative of each cellular service company and paging service company operating in New Mexico so that a text message may be sent to the company's customers at no additional expense to the recipient or to any service that accepts the information from the authorized requester and delivers it to the cellular service or paging service company;

(5) include a procedure for notifying all local and federal law enforcement agencies that an AMBER alert has been declared; and

(6) provide for dissemination of information about a child or a child's abductor to the lead station, the department of information technology and local law enforcement agencies when an AMBER alert has been declared.

B. The state police shall distribute the AMBER alert notification plan to all local law enforcement agencies and provide such training and other assistance as is necessary to ensure that the plan can be properly implemented.

C. The authorized requester may declare an AMBER alert when the requester has reason to believe that:

(1) a child under the age of eighteen has been abducted by an unrelated person;

(2) the child is in imminent danger of serious bodily harm or death; and

(3) there is specific information available about the child or the child's abductor that may assist in an expedient and successful end to the abduction.

D. Once an AMBER alert has been declared, only the authorized requester may terminate the AMBER alert."

## **Chapter 290 Section 25 Laws 2007**

Section 25. Section 38-5-3 NMSA 1978 (being Laws 1991, Chapter 71, Section 2, as amended) is amended to read:

"38-5-3. SOURCE FOR JUROR SELECTION.--

A. Each county clerk shall make available to the secretary of state a database of registered voters of the clerk's county. The secretary of state shall preserve and make available to the department of information technology, by electronic media, a database of New Mexico registered voters, by county, which shall be updated monthly. The director of the motor vehicle division of the taxation and revenue department shall make available by electronic media to the department of information technology a database of driver's license holders in each county, which shall be updated monthly. The secretary of taxation and revenue shall make available to the department of information technology, by electronic media, a database of New Mexico personal income tax filers by county, which shall be updated quarterly.

B. The department of information technology shall program the merger of the registered voter, driver's license and personal income tax filer databases from each county to form a master jury database and write a computer program so that a random selection of jurors can be made. A discrimination shall not be exercised except for the elimination of persons who are not eligible for jury service. The administrative office of the courts shall provide specifications for the merging of the registered voter, driver's

license and personal income tax filer databases. The merged database information shall be the database that produces the random jury list for the selection of petit or grand jurors for the state courts.

C. The court shall, by order, designate the number of potential jurors to be selected and the date on which the jurors are to report for empaneling. Within fifteen days after receipt of a copy of the order, the administrative office of the courts shall provide the random jury list to the court. The department of information technology shall print the random jury list and jury summons mailer forms within ten days after receiving the request from the administrative office of the courts. Upon issuance of the order, the department of information technology shall draw from the most current registered voter, driver's license and personal income tax filer databases to create the random jury list.

D. The department of information technology may transfer the master jury database to a court that has compatible equipment to accept such a transfer. The court accepting the master jury database shall transfer the information to a programmed computer used for the random selection of petit or grand jurors."

## **Chapter 290 Section 26 Laws 2007**

Section 26. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW.--

A. The transfer of functions, personnel, appropriations, money, records, equipment, supplies, other property and contractual obligations of the office of the chief information officer, the information technology commission, pursuant to the Information Technology Management Act, and the communications division, information systems division, radio communications bureau and telecommunications bureau of the general services department is approved and transferred to the department of information technology. All references in law to the office of the chief information officer, the information technology commission, pursuant to the Information Technology Management Act, and the communications division, information systems division, radio communications bureau and telecommunications bureau of the general services department shall be deemed to be references to the department of information technology.

B. It is the intent of the legislature that consolidation of state services and programs into the department of information technology be accomplished as quickly as practicable, without disruption in information technology services to executive agencies.

C. At the time of transfer of an agency or program, all personnel, money, appropriations, records, files, furniture, equipment and other property related to that agency or program shall be transferred to the department of information technology. The governor's office and the state budget division of the department of finance and administration shall assist in the identification of personnel, money, appropriations and property to be transferred and shall certify to the legislature that resources transferred

from other agencies to the department of information technology are sufficient to continue the same level of services.

D. Contractual and other obligations of an agency or program shall be obligations of the department of information technology.

E. After the effective date of the transfers provided in Subsection B of this section, references in law to the programs being transferred shall be deemed to be references to the department of information technology.

F. The secretary of information technology shall provide periodic updates to the legislative finance committee and other appropriate interim legislative committees on the progress of the transition and integration plan and the establishment of the department of information technology. By November 1, 2007, the secretary shall provide the legislative finance committee and other appropriate interim legislative committees with a comprehensive plan to provide information technology services for all executive branch agencies, including recommendations, if any, for the transfer of additional information technology services or programs from other agencies to the department of information technology.

## **Chapter 290 Section 27 Laws 2007**

Section 27. REPEAL.--Sections 15-1C-1 through 15-1C-12 NMSA 1978 (being Laws 1999, Chapter 16, Sections 1 through 11, Laws 2003, Chapter 49, Section 9 and Laws 2003, Chapter 308, Section 9, as amended) are repealed.

## **Chapter 290 Section 28 Laws 2007**

Section 28. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 959, as amended

Approved April 2, 2007

# **LAWS 2007, CHAPTER 291**

AN ACT

RELATING TO PUBLIC SAFETY; CREATING THE HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT; PROVIDING POWERS AND DUTIES; CHANGING THE SHORT TITLES OF CERTAIN ACTS.

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

### **Chapter 291 Section 1 Laws 2007**

Section 1. SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Homeland Security and Emergency Management Department Act".

### **Chapter 291 Section 2 Laws 2007**

Section 2. PURPOSE.--The purpose of the Homeland Security and Emergency Management Department Act is to establish a department to:

A. consolidate and coordinate homeland security and emergency management functions to provide comprehensive and coordinated preparedness, mitigation, prevention, protection, response and recovery for emergencies and disasters, regardless of cause, and acts of terrorism;

B. act as the central primary coordinating agency for the state and its political subdivisions in response to emergencies, disasters and acts of terrorism; and

C. act as the conduit for federal assistance and cooperation in response to emergencies, disasters and acts of terrorism.

### **Chapter 291 Section 3 Laws 2007**

Section 3. DEFINITIONS.--As used in the Homeland Security and Emergency Management Department Act:

A. "department" means the homeland security and emergency management department; and

B. "state director" means the state director of homeland security and emergency management.

### **Chapter 291 Section 4 Laws 2007**

Section 4. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT--CREATED--POWERS AND DUTIES.--

A. The "homeland security and emergency management department" is created in the executive branch. The department is not a cabinet department. The chief administrative and executive officer of the department is the "state director of homeland security and emergency management", who shall be appointed by the governor and hold office at the pleasure of the governor.

B. The state director is responsible to the governor for the operation of the department. It is the state director's duty to manage all operations of the department and to administer and enforce the laws with which the state director or the department is charged.

C. To perform the state director's duties, the state director has every power expressly enumerated in the laws, whether granted to the state director or the department or any division of the department, except where authority conferred upon any division is explicitly exempted from the state director's authority by statute. In accordance with these provisions, the state director shall:

(1) except as otherwise provided in the Homeland Security and Emergency Management Department Act, exercise general supervisory and appointing authority over all department employees, subject to any applicable personnel laws and rules;

(2) delegate authority to subordinates as the state director deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto;

(3) organize the department into those organizational units the state director deems will enable it to function most efficiently, subject to any provisions of law requiring or establishing specific organizational units;

(4) within the limitations of available appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge the state director's duties;

(5) take administrative action by issuing orders and instructions, not inconsistent with the law, to ensure implementation of and compliance with the provisions of law for whose administration or execution the state director is responsible and to enforce those orders and instructions by appropriate administrative action or actions in the courts;

(6) conduct research and studies that will improve the operations of the department and the provision of services to the residents of the state;

(7) provide courses of instruction and practical training for employees of the department and other persons involved in the administration of programs, with the objective of improving the operations and efficiency of administration;

(8) prepare an annual budget of the department;

(9) provide cooperation, at the request of heads of administratively attached agencies, in order to:

(a) minimize or eliminate duplication of services and jurisdictional conflicts;

(b) coordinate activities and resolve problems of mutual concern; and

(c) resolve by agreement the manner and extent to which the department shall provide budgeting, record-keeping and related clerical assistance to administratively attached agencies; and

(10) appoint, with the governor's consent, a "director" for each division. These appointed positions are exempt from the provisions of the Personnel Act. Persons appointed to these positions shall serve at the pleasure of the state director.

D. The state director may apply for and receive, with the governor's approval, in the name of the department any public or private funds, including United States government funds, available to the department to carry out its programs, duties or services.

E. The state director may make and adopt such reasonable and procedural rules as may be necessary to carry out the duties of the department and its divisions. No rule promulgated by the director of any division in carrying out the functions and duties of the division shall be effective until approved by the state director, unless otherwise provided by statute. Unless otherwise provided by statute, no rule affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the state director or a hearing officer designated by the state director. The public hearing shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the rule, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed rule, proposed amendment or repeal of an existing rule may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing. All rules shall be filed in accordance with the State Rules Act.

## **Chapter 291 Section 5 Laws 2007**

Section 5. DEPARTMENT DUTIES.--The department shall:

A. coordinate the homeland security and emergency management efforts of all state and local government agencies, as well as enlist cooperation from private entities such as health care providers;

B. apply for and accept federal funds for homeland security, administer the funds and develop criteria to allocate grants to local governments, tribes, state agencies and other qualified entities;

C. act as liaison between federal, state and local agencies to effect the improved sharing of counterterrorism intelligence;

D. provide information to the general public and to private businesses that is essential to ensuring their safety and security and provide the governor with timely information relating to emergencies, disasters and acts of terrorism or terrorist threats;

E. establish security standards for state facilities and for protection of their occupants and develop plans for the continuity of state government operations in the event of a threat or act of terrorism or other natural or man-made disaster;

F. identify the state's critical infrastructures and assist public and private entities with developing plans and procedures designed to implement the protective actions necessary to continue operations;

G. coordinate state agency and local government plans for prevention, preparedness and response with a focus on an all-hazards approach;

H. coordinate law enforcement counterterrorism prevention, preparedness and response training on a statewide basis, including training for emergency responders, government officials, health care providers and others as appropriate;

I. work with emergency response and emergency management programs and provide assistance in developing and conducting terrorism response exercises for emergency responders, government officials, health care providers and others;

J. coordinate law enforcement's and emergency responders' response to an act of terrorism or terrorist threat;

K. develop and maintain a statewide plan and strategy to manage and allocate federal grant funds required to provide the state's emergency response community with the equipment necessary to respond to an act of terrorism involving a weapon of mass destruction; and

L. perform such other duties relating to homeland security as may be assigned by the governor.

## **Chapter 291 Section 6 Laws 2007**

Section 6. COOPERATION WITH FEDERAL GOVERNMENT--AUTHORITY OF STATE DIRECTOR--SINGLE STATE AGENCY STATUS.--

A. The department is authorized to cooperate with the federal government in the administration of homeland security and emergency management programs in which financial or other participation by the federal government is authorized or mandated under state or federal laws, rules or orders. The department may enter into agreements

with agencies of the federal government to implement homeland security and emergency management programs subject to availability of appropriated state funds and any provisions of state laws applicable to such agreements or participation by the state. B. The governor may by appropriate order designate the department as the single state agency for the administration of any homeland security or emergency management program when that designation is a condition of federal financial or other participation in the program under applicable federal law, rule or order. Whether or not a federal condition exists, the governor may designate the department as the single state agency for the administration of any homeland security or emergency management program. No designation of a single state agency under the authority granted in this section shall be made in contravention of state law.

## **Chapter 291 Section 7 Laws 2007**

Section 7. Section 9-19-4 NMSA 1978 (being Laws 1987, Chapter 254, Section 4, as amended) is amended to read:

"9-19-4. DEPARTMENT ESTABLISHED.--There is created in the executive branch the "department of public safety". The department shall be a cabinet department and shall consist of, but not be limited to, five program divisions, an administrative division and an information technology division as follows:

- A. the New Mexico state police division;
- B. the special investigations division;
- C. the training and recruiting division;
- D. the technical support division;
- E. the administrative services division;
- F. the motor transportation division; and
- G. the information technology division."

## **Chapter 291 Section 8 Laws 2007**

Section 8. Section 9-19-7 NMSA 1978 (being Laws 1987, Chapter 254, Section 7, as amended) is amended to read:

"9-19-7. ORGANIZATIONAL UNITS OF DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--

A. The organizational units of the department and the officers of those units specified by law shall have all the powers and duties enumerated in the specific laws

involved. However, the carrying out of those powers and duties shall be subject to the direction and supervision of the secretary, who shall retain the final decision-making authority and responsibility for the administration of any such laws as provided in Subsection B of Section 9-19-6 NMSA 1978. The department shall have access to all records, data and information of other state departments, agencies and institutions, including its own organizational units, not specifically held confidential by law.

B. The New Mexico state police division shall consist of the commissioned officers and civilian personnel, including all communications equipment operators, of the New Mexico state police uniform division and the commissioned officers and civilian personnel of the New Mexico state police criminal division and such other personnel as may be assigned by the secretary or by the governor pursuant to an executive order as authorized in the Department of Public Safety Act.

C. The special investigations division shall consist of the enforcement personnel of the department of alcoholic beverage control and such other personnel as may be assigned by the secretary or by the governor pursuant to an executive order as authorized in the Department of Public Safety Act. The division is responsible for the enforcement of the Bingo and Raffle Act and the Liquor Control Act.

D. The technical support division shall consist of functions such as communications, crime laboratory and records.

E. The training and recruiting division shall consist of the personnel of the New Mexico law enforcement academy, the New Mexico state police training division and all other training personnel and functions of the department as the secretary may transfer to this division.

F. The administrative services division shall consist of the administrative services and services divisions of the New Mexico state police and those administrative support personnel of the other existing departments, divisions or offices as the secretary deems necessary."

## **Chapter 291 Section 9 Laws 2007**

Section 9. Section 12-10-1 NMSA 1978 (being Laws 1959, Chapter 190, Section 1, as amended) is amended to read:

"12-10-1. SHORT TITLE.--Sections 12-10-1 through 12-10-10 NMSA 1978 may be cited as the "All Hazard Emergency Management Act"."

## **Chapter 291 Section 10 Laws 2007**

Section 10. Section 12-10-2 NMSA 1978 (being Laws 1959, Chapter 190, Section 2, as amended) is amended to read:

"12-10-2. PURPOSE.--The purpose of the All Hazard Emergency Management Act is to:

A. authorize the creation of local offices of emergency management in the political subdivisions of the state;

B. confer upon the governor and upon the governing bodies of the state all hazard emergency management powers;

C. provide an emergency operations plan for the protection of life and property adequate to cope with disasters resulting from acts of war or sabotage or from natural or man-made causes other than acts of war;

D. provide for coordination of all hazard emergency management functions of this state with the comparable functions of the federal government and other states and localities and of private agencies;

E. initiate programs to render aid in the emergency restoration of facilities, utilities and other installations essential to the safety and general welfare of the public; and

F. provide for assistance and care for persons displaced, left homeless or otherwise victims of disaster or war conditions."

## **Chapter 291 Section 11 Laws 2007**

Section 11. Section 12-10-3 NMSA 1978 (being Laws 1969, Chapter 33, Section 1, as amended) is amended to read:

"12-10-3. EMERGENCY PLANNING AND COORDINATION.--The state director of homeland security and emergency management shall be responsible for carrying out the program for all hazard emergency management authorized by law and shall serve as the governor's authorized representative at the discretion of the governor. The state director shall direct and coordinate the all hazard emergency management activities of all state departments, agencies and political subdivisions and shall maintain liaison with and cooperate with all hazard emergency management agencies and organizations of other states and of the federal government."

## **Chapter 291 Section 12 Laws 2007**

Section 12. Section 12-10-4 NMSA 1978 (being Laws 1959, Chapter 190, Section 5, as amended) is amended to read:

"12-10-4. ALL HAZARD EMERGENCY MANAGEMENT--POWERS OF THE GOVERNOR.--

A. The governor shall have general direction and control of the activities of the homeland security and emergency management department and shall be responsible for carrying out the provisions of the All Hazard Emergency Management Act and, in the event of any man-made or natural disaster causing or threatening widespread physical or economic harm that is beyond local control and requiring the resources of the state, shall exercise direction and control over any and all state forces and resources engaged in emergency operations or related all hazard emergency management functions within the state.

B. In carrying out the provisions of the All Hazard Emergency Management Act, the governor is authorized to:

(1) cooperate with the federal government and agree to carry out all hazard emergency management responsibilities delegated in accordance with existing federal laws and policies and cooperate with other states and with private agencies in all matters relating to the all hazard emergency management of the state and nation;

(2) issue, amend or rescind the necessary orders, rules and procedures to carry out the provisions of the All Hazard Emergency Management Act;

(3) provide those resources and services necessary to avoid or minimize economic or physical harm until a situation becomes stabilized and again under local self-support and control, including the provision, on a temporary, emergency basis, of lodging, sheltering, health care, food, transportation or shipping necessary to protect lives or public property; or for any other action necessary to protect the public health, safety and welfare;

(4) prepare a comprehensive emergency operations plan and program and to integrate the state emergency operations plan and program with the emergency operations plans and programs of the federal government and other states and to coordinate the preparation of emergency operations plans and programs by the political subdivisions of this state;

(5) procure supplies and equipment, to institute training programs and public information programs and to take all necessary preparatory actions, including the partial or full mobilization of state and local government forces and resources in advance of actual disaster, to ensure the furnishing of adequately trained and equipped emergency forces of government and auxiliary personnel to cope with disasters resulting from enemy attack or other causes; and

(6) enter into mutual aid agreements with other states and to coordinate mutual aid agreements between political subdivisions of the state."

## **Chapter 291 Section 13 Laws 2007**

Section 13. Section 12-10-5 NMSA 1978 (being Laws 1959, Chapter 190, Section 6, as amended) is amended to read:

"12-10-5. LOCAL EMERGENCY MANAGEMENT.--The governing bodies of the political subdivisions of the state are responsible for the all hazard emergency management of their respective jurisdictions. Each political subdivision is authorized to establish, by ordinance or resolution, a local office of emergency management as an agency of the local government and responsible to the governing body, in accordance with the state emergency operations plan and program. Every local coordinator of emergency management shall be appointed by the governing body, subject to the approval of the state director of homeland security and emergency management, and the local coordinator shall have direct responsibility for carrying out the all hazard emergency management program of the political subdivision. The state director shall coordinate the emergency management activities of all local governmental departments and agencies and shall maintain liaison with and cooperate with emergency management agencies and organizations of other political subdivisions and of the state government. Each local organization shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized."

### **Chapter 291 Section 14 Laws 2007**

Section 14. Section 12-10-6 NMSA 1978 (being Laws 1959, Chapter 190, Section 7, as amended) is amended to read:

"12-10-6. MUTUAL AID AGREEMENTS.--Each political subdivision may, in cooperation with other public and private agencies within the state, enter into mutual aid agreements for reciprocal emergency management aid and assistance. The agreements shall be consistent with the state emergency operations plan, and in time of emergency it shall be the duty of each local emergency management organization to render assistance within its capabilities and in accordance with the provisions of the program and plan promulgated by the homeland security and emergency management department."

### **Chapter 291 Section 15 Laws 2007**

Section 15. Section 12-10-7 NMSA 1978 (being Laws 1959, Chapter 190, Section 8, as amended) is amended to read:

"12-10-7. AUTHORITY TO MAKE APPROPRIATIONS AND ACCEPT AID.--

A. Each political subdivision of the state shall have the power to make appropriations in the manner prescribed by law, and subject to the limitations of the law, for the payment of expenses of emergency management.

B. Whenever the federal government or any agency or officer thereof shall offer to the state or any political subdivision thereof services, equipment, supplies, materials

or funds by way of gift, grant or loan for purposes of emergency management, the state, acting through the governor, or the political subdivision, acting with the consent of the governor, may accept the offer and may authorize any officer of the state or of the political subdivision to receive the aid and assistance.

C. Whenever any private person, firm or corporation shall offer to the state or to any political subdivision thereof any aid or assistance for emergency management, the state or the political subdivision shall be authorized to accept the aid or assistance, subject to the provisions of this section."

## **Chapter 291 Section 16 Laws 2007**

Section 16. Section 12-10-8 NMSA 1978 (being Laws 1963, Chapter 193, Section 1, as amended) is amended to read:

"12-10-8. CIVIL LIABILITY--LIMITED.--Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege or otherwise permits the designation or use of the whole or any part of the person's real estate or premises for the purpose of sheltering persons during an actual or impending enemy attack or other disaster shall, together with the person's successors in interest, if any, not be civilly liable for negligently causing the death of or injury to any person on or about the real estate or premises or for the loss of or damage to the property of such person, providing the premises have been approved either in whole or in part by the proper all hazard emergency management authorities for such purpose."

## **Chapter 291 Section 17 Laws 2007**

Section 17. Section 12-10-9 NMSA 1978 (being Laws 1959, Chapter 190, Section 9, as amended) is amended to read:

"12-10-9. EXISTING SERVICES AND FACILITIES TO BE USED BY AGENCY.--The governor, the homeland security and emergency management department and the governing bodies of the political subdivisions of the state are directed to use, in carrying out the provisions of the All Hazard Emergency Management Act, the services, equipment, supplies and facilities of existing departments, offices and agencies of the state and its political subdivisions to the maximum extent practicable, and the officers and personnel of all departments, offices and agencies of the state and its political subdivisions are directed to cooperate with and extend their services and facilities to the governor or to the department or to the local coordinators of all hazard emergency management throughout the state upon request."

## **Chapter 291 Section 18 Laws 2007**

Section 18. Section 12-10-10 NMSA 1978 (being Laws 1959, Chapter 190, Section 10, as amended) is amended to read:

## "12-10-10. ENFORCEMENT OF EXECUTIVE ORDERS AND RULES.--

A. It is the duty of all political subdivisions of the state and their coordinators of the all hazard emergency management programs appointed pursuant to the provisions of the All Hazard Emergency Management Act to comply with and enforce all executive orders and rules made by the governor or under the governor's authority pursuant to law.

B. Political subdivisions shall meet all state and federal requirements before becoming eligible to participate in state and federal all hazard emergency management assistance programs. They must comply with all state and federal rules and procedures and shall be removed from participation in the assistance programs by the state director of homeland security and emergency management for failure to comply with the rules and procedures or to maintain their eligibility in accordance with prescribed requirements."

### **Chapter 291 Section 19 Laws 2007**

Section 19. Section 12-10-11 NMSA 1978 (being Laws 2002, Chapter 83, Section 2) is amended to read:

"12-10-11. OUT-OF-STATE LICENSE HOLDERS--POWERS--DUTIES.--During an emergency, a person who holds a license, certificate or other permit that is issued by a state or territory of the United States and that evidences the meeting of qualifications for professional, mechanical or other skills may be credentialed, if appropriate and approved by the department of health or the homeland security and emergency management department, to render aid involving those skills to meet an emergency, subject to limitations and conditions as the governor may prescribe by executive order or otherwise. A person shall be considered a public employee for the purposes of the Tort Claims Act when approved to perform those duties."

### **Chapter 291 Section 20 Laws 2007**

Section 20. Section 12-10-12 NMSA 1978 (being Laws 2002, Chapter 83, Section 3) is amended to read:

"12-10-12. APPLICATION.--The provisions of Section 12-10-11 NMSA 1978 apply to a person from any state or territory whether or not a party to the Emergency Management Assistance Compact."

### **Chapter 291 Section 21 Laws 2007**

Section 21. Section 12-10-13 NMSA 1978 (being Laws 2002, Chapter 83, Section 4) is amended to read:

"12-10-13. IN-STATE LICENSE HOLDERS--POWERS--DUTIES.--During an emergency, a person who holds a license, certificate or other permit that is issued by the state and that evidences the meeting of qualifications for professional, mechanical or other skills may be credentialed, if appropriate and approved by the department of health or the homeland security and emergency management department, to render aid involving those skills to meet a declared emergency, and shall be considered a public employee for the purposes of the Tort Claims Act when approved to perform those duties."

## **Chapter 291 Section 22 Laws 2007**

Section 22. Section 12-10A-1 NMSA 1978 (being Laws 2003, Chapter 218, Section 1) is amended to read:

"12-10A-1. SHORT TITLE.--Chapter 12, Article 10A NMSA 1978 may be cited as the "Public Health Emergency Response Act"."

## **Chapter 291 Section 23 Laws 2007**

Section 23. Section 12-10A-3 NMSA 1978 (being Laws 2003, Chapter 218, Section 3) is amended to read:

"12-10A-3. DEFINITIONS.--As used in the Public Health Emergency Response Act:

A. "attorney general" means the New Mexico attorney general;

B. "court" means the district court for the judicial district where a public health emergency is occurring, the district court for Santa Fe county or, in the event that a district court cannot adequately provide services, a district court designated by the New Mexico supreme court;

C. "director" or "state director" means the state director of homeland security and emergency management or the state director's designee;

D. "health care supplies" means medication, durable medical equipment, instruments, linens or any other material that the state may need to use in a public health emergency, including supplies for preparedness, mitigation and recovery;

E. "health facility" means:

(1) a facility licensed by the state pursuant to the provisions of the Public Health Act;

(2) a nonfederal facility or building, whether public or private, for-profit or nonprofit, that is used, operated or designed to provide health services, medical treatment, nursing services, rehabilitative services or preventive care;

(3) a federal facility, when the appropriate federal entity provides its consent; or

(4) the following properties when they are used for, or in connection with, health-related activities:

(a) laboratories;

(b) research facilities;

(c) pharmacies;

(d) laundry facilities;

(e) health personnel training and lodging facilities;

(f) patient, guest and health personnel food service facilities; and

(g) offices or office buildings used by persons engaged in health care professions or services;

F. "isolation" means the physical separation for possible medical care of persons who are infected or who are reasonably believed to be infected with a threatening communicable disease or potential threatening communicable disease from non-isolated persons, to protect against the transmission of the threatening communicable disease to non-isolated persons;

G. "public health emergency" means the occurrence or imminent threat of exposure to an extremely dangerous condition or a highly infectious or toxic agent, including a threatening communicable disease, that poses an imminent threat of substantial harm to the population of New Mexico or any portion thereof;

H. "public health official" means the secretary of health or the secretary's designee, including a qualified public individual or group or a qualified private individual or group, as determined by the secretary of health;

I. "quarantine" means the precautionary physical separation of persons who have or may have been exposed to a threatening communicable disease or a potentially threatening communicable disease and who do not show signs or symptoms of a threatening communicable disease, from non-quarantined persons, to protect against the transmission of the disease to non-quarantined persons;

J. "secretary of health" means the secretary or the secretary's designee;

K. "secretary of public safety" means the secretary or the secretary's designee;  
and

L. "threatening communicable disease" means a disease that causes death or great bodily harm that passes from one person to another and for which there are no means by which the public can reasonably avoid the risk of contracting the disease. "Threatening communicable disease" does not include acquired immune deficiency syndrome or other infections caused by the human immunodeficiency virus."

### **Chapter 291 Section 24 Laws 2007**

Section 24. Section 12-10A-17 NMSA 1978 (being Laws 2003, Chapter 218, Section 17) is amended to read:

"12-10A-17. RULEMAKING.--The secretary of public safety, the secretary of health, the state director and, where appropriate, other affected state agencies in consultation with the secretaries and state director, shall promulgate and implement rules that are reasonable and necessary to implement and effectuate the Public Health Emergency Response Act."

### **Chapter 291 Section 25 Laws 2007**

Section 25. Section 12-12-17 NMSA 1978 (being Laws 1983, Chapter 80, Section 1, as amended) is amended to read:

"12-12-17. SHORT TITLE.--Sections 12-12-17 through 12-12-30 NMSA 1978 may be cited as the "Hazardous Materials Emergency Response Act"."

### **Chapter 291 Section 26 Laws 2007**

Section 26. Section 12-12-18 NMSA 1978 (being Laws 1983, Chapter 80, Section 2) is amended to read:

"12-12-18. FINDINGS AND PURPOSE.--

A. The legislature finds that the use of hazardous materials, including radioactive materials, and the transportation of such materials through or within New Mexico occurs on a daily basis, and, no matter how safety-conscious facilities, users, shippers or carriers are, accidents may occur. In the event of an accident, resource requirements may be beyond the capability of local governments, and the state must be prepared to respond quickly and effectively to protect the health and safety of its citizens and the environment.

B. It is the purpose of the Hazardous Materials Emergency Response Act to:

(1) provide that adequate hazardous materials emergency management capability exists in the state to protect the health and safety of New Mexico citizens and the environment;

(2) delineate those state agencies that are responsible for responding to an accident and providing for the control and management of such an accident and to provide for the cooperation of other state agencies and local governments in emergency management; and

(3) provide for the formulation of a comprehensive hazardous materials emergency response plan that will be distributed statewide and that will be complied with by all persons who may be involved in responding to an accident."

### **Chapter 291 Section 27 Laws 2007**

Section 27. Section 12-12-19 NMSA 1978 (being Laws 1983, Chapter 80, Section 3, as amended by Laws 1997, Chapter 152, Section 1 and also by Laws 1997, Chapter 231, Section 1) is amended to read:

"12-12-19. DEFINITIONS.--As used in the Hazardous Materials Emergency Response Act:

A. "accident" means an event involving hazardous materials that may cause injury to persons or damage to property or release hazardous materials to the environment;

B. "administrator" means the hazardous materials emergency response administrator;

C. "board" means the hazardous materials safety board;

D. "chief" means the chief of the New Mexico state police;

E. "commission" means the state emergency response commission;

F. "department" means the homeland security and emergency management department;

G. "emergency management" means the ability to prepare for, respond to, mitigate, recover and restore the scene of an institutional, industrial, transportation or other accident;

H. "first responder" means the first law enforcement officer or other public service provider with a radio-equipped vehicle to arrive at the scene of an accident;

I. "hazardous materials" means hazardous substances, radioactive materials or a combination of hazardous substances and radioactive materials;

J. "hazardous substances" means flammable solids, semisolids, liquids or gases; poisons; corrosives; explosives; compressed gases; reactive or toxic chemicals; irritants; or biological agents, but does not include radioactive materials;

K. "orphan hazardous materials" means hazardous substances, radioactive materials, a combination of hazardous substances and radioactive materials or substances used in the manufacture of controlled substances in violation of the Controlled Substances Act where an owner of the substances or materials cannot be identified;

L. "plan" means the statewide hazardous materials emergency response plan;

M. "radioactive materials" means any material or combination of materials that spontaneously emits ionizing radiation. Materials in which the estimated specific activity is not greater than 0.002 microcuries per gram of material are not considered to be radioactive materials unless determined to be so by the hazardous and radioactive materials bureau of the water and waste management division of the department of environment for purposes of emergency response pursuant to the Hazardous Materials Emergency Response Act;

N. "responsible state agency" means an agency designated in Subsection D of Section 12-12-21 NMSA 1978 with responsibility for managing a certain type of accident or performing certain functions at the scene of such accident; and

O. "secretary" or "state director" means the state director of homeland security and emergency management."

## **Chapter 291 Section 28 Laws 2007**

Section 28. Section 12-12-20 NMSA 1978 (being Laws 1983, Chapter 80, Section 4, as amended) is amended to read:

"12-12-20. STATE RESPONSIBILITY FOR MANAGEMENT OF ACCIDENTS--  
IMMUNITY FROM LIABILITY--COOPERATIVE AGREEMENTS--PRIVATE  
PROPERTY.--

A. The state director shall have final authority to administer the provisions of the Hazardous Materials Emergency Response Act.

B. As between state and local governments, the state government has the primary responsibility for the management of an accident, and the local government in whose jurisdiction the accident occurs shall assist the state in its management of the accident.

C. Nothing in the Hazardous Materials Emergency Response Act shall be construed as a waiver or alteration of the immunity from liability granted under the Tort Claims Act or as a waiver of any other immunity or privilege under law.

D. The state, through the state director or state director's designee, may enter into cooperative agreements with county and municipal governments for the management of accidents based on the severity of the accident and the resources of the local government. The plan shall set forth the criteria for determining when an accident may be managed by the local government in whose jurisdiction the accident occurred.

E. The state director shall support emergency response capabilities by assisting local and state responders in the acquisition of equipment, training and hazardous materials information.

F. The state, through the state director or state director's designee, may enter into cooperative agreements with the federal government, Indian tribes and pueblos and bordering states for assistance in the management of accidents.

G. Whenever an accident appears imminent or has occurred, employees or authorized persons of responsible state agencies as defined in Section 12-12-21 NMSA 1978 are authorized to enter upon any premises for the purpose of determining whether it is necessary for emergency management procedures to be implemented. The state on-scene coordinator or a responsible state agency may take full control and custody of the premises for the purpose of managing the accident."

## **Chapter 291 Section 29 Laws 2007**

Section 29. Section 12-12-21 NMSA 1978 (being Laws 1983, Chapter 80, Section 5, as amended) is amended to read:

"12-12-21. STATE POLICE EMERGENCY RESPONSE OFFICER--  
PROCEDURE FOR NOTIFICATION--COOPERATION OF OTHER STATE AGENCIES  
AND LOCAL GOVERNMENTS.--

A. The state director, in addition to having final authority to administer the provisions of the Hazardous Materials Emergency Response Act, shall be responsible for central coordination and communication in the event of an accident.

B. The chief shall designate one or more persons to be known as "state police emergency response officers". A state police emergency response officer shall be trained in accident evaluation and emergency response and shall be available to answer an emergency response call from the first responder.

C. In the event of an accident, if the first responder is a law enforcement officer, the officer shall immediately notify the state police district emergency response officer in

the officer's area, who shall in turn immediately notify the state police emergency response center. If the first responder is a person with radio capability tied into the radio communications bureau of the information systems division of the general services department, the person shall immediately notify Santa Fe control, who shall in turn immediately notify the state police emergency response center. The state police emergency response center shall:

(1) evaluate and determine the scope of the accident based on information provided by the first responder;

(2) instruct the first responder on how to proceed at the accident scene;

(3) immediately notify the state director and the appropriate responsible state agency and advise it of the necessary response;

(4) notify the sheriff or chief of police in whose jurisdiction the accident occurred; and

(5) coordinate field communications and summon additional resources requested by the emergency management team.

D. The responsible state agencies shall be:

(1) the New Mexico state police division of the department of public safety for coordination, law enforcement and traffic and crowd control;

(2) the department of environment for assistance with accidents involving hazardous materials or hazardous substances;

(3) the state fire marshal's office for assistance with any accident involving hazardous materials;

(4) the emergency medical services bureau of the department of health for assistance with accidents involving casualties;

(5) the homeland security and emergency management department and the department of military affairs for assistance with accidents that require the evacuation of the vicinity of the accident or the use of the national guard of New Mexico; and

(6) the department of transportation for assistance with road closures, designating alternate routes and related services.

E. Other state agencies and local governments shall assist the responsible state agencies when requested to do so.

F. Any driver of a vehicle carrying hazardous materials involved in an accident that may cause injury to persons or property or any owner, shipper or carrier of hazardous materials involved in an accident who has knowledge of such accident or any owner or person in charge of any building, premises or facility where such an accident occurs shall immediately notify the New Mexico state police division of the department of public safety by the quickest means of communication available."

### **Chapter 291 Section 30 Laws 2007**

Section 30. Section 12-12-23 NMSA 1978 (being Laws 1984, Chapter 41, Section 6, as amended) is amended to read:

"12-12-23. HAZARDOUS MATERIALS EMERGENCY RESPONSE ADMINISTRATOR -- CREATED -- DUTIES.--The position of "hazardous materials emergency response administrator" is created within the homeland security and emergency management department. The state director shall assign the administrator's duties."

### **Chapter 291 Section 31 Laws 2007**

Section 31. Section 12-12-27 NMSA 1978 (being Laws 1983, Chapter 80, Section 10) is amended to read:

"12-12-27. CLEAN-UP.--Nothing in the Hazardous Materials Emergency Response Act shall be construed to relieve hazardous materials owners, shippers or carriers of their responsibilities and liability in the event of an accident. Such persons shall assist the state as requested in responding to an accident and are responsible for restoring the scene of the accident to the satisfaction of the state."

### **Chapter 291 Section 32 Laws 2007**

Section 32. Section 74-4E-1 NMSA 1978 (being Laws 1989, Chapter 149, Section 1) is amended to read:

"74-4E-1. SHORT TITLE.--Chapter 74, Article 4E NMSA 1978 may be cited as the "Hazardous Chemicals Information Act"."

### **Chapter 291 Section 33 Laws 2007**

Section 33. Section 74-4E-3 NMSA 1978 (being Laws 1989, Chapter 149, Section 3) is amended to read:

"74-4E-3. DEFINITIONS.--As used in the Hazardous Chemicals Information Act:

A. "commission" means the state emergency response commission;

B. "department" means the homeland security and emergency management department;

C. "emergency responder" means any law enforcement officer, firefighter, medical services professional or other person trained and equipped to respond to hazardous chemical releases;

D. "hazardous chemical" means any hazardous chemical, extremely hazardous substance, toxic chemical or hazardous material as defined by Title 3;

E. "facility owner or operator" means any individual, trust, firm, joint stock company, corporation, partnership, association, state agency, municipality or county having legal control or authority over buildings, equipment, structures and other stationary items that are located on a single site or on contiguous or adjacent sites. For the purposes of Section 74-4E-5 NMSA 1978, the term includes owners or operators of motor vehicles, rolling stock and aircraft;

F. "local emergency planning committee" means any local group appointed by the commission to undertake chemical release contingency planning;

G. "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment of any hazardous chemical, extremely hazardous substance or toxic chemical. "Release" includes the abandonment or discarding of barrels, containers and other closed receptacles; and

H. "Title 3" means the federal Emergency Planning and Community Right-to-Know Act of 1986."

## **Chapter 291 Section 34 Laws 2007**

Section 34. Section 74-4E-4 NMSA 1978 (being Laws 1989, Chapter 149, Section 4) is amended to read:

"74-4E-4. COMMISSION CREATED -- MEMBERSHIP -- TERMS -- DUTIES -- IMMUNITY GRANTED.--

A. The "state emergency response commission" is created. The commission shall consist of seven members who shall be qualified voters of the state of New Mexico. All members shall be appointed by the governor. Among the members appointed, there shall be representatives of private industry, federal facilities, public health and public safety. Appointments shall be made for four-year terms to expire on January 1 of the appropriate year. Commission members shall serve staggered terms as determined by the governor at the time of their initial appointments. Annually, the governor shall designate, from among the members, a chair of the commission.

B. The commission shall:

- (1) exercise supervisory authority to implement Title 3 within New Mexico;
- (2) prescribe all reporting forms required by the Hazardous Chemicals Information Act;
- (3) provide direction to the hazardous materials safety board;
- (4) report periodically to the radioactive and hazardous materials committee; and
- (5) report annually to the governor and the legislature.

C. The commission may solicit and accept grants from federal or private sources for undertakings that further the purpose of the Hazardous Chemicals Information Act and may make contracts necessary to carry out the purpose of that act.

D. Commission members shall not vote by proxy. A majority of the members constitute a quorum for the conduct of business.

E. Commission members shall not be paid, but shall receive per diem and mileage expenses as provided in the Per Diem and Mileage Act.

F. Immunity from tort liability for emergency response actions, including planning or preparation therefor, is granted to the state, its subdivisions and all their agencies, officers, agents and employees. Any waiver of immunity from tort liability granted under the Tort Claims Act shall not be applicable to disaster or emergency response or planning."

## **Chapter 291 Section 35 Laws 2007**

Section 35. TEMPORARY PROVISION -- TRANSFER OF PERSONNEL AND PROPERTY -- CONTRACTUAL OBLIGATIONS -- STATUTORY REFERENCES.--

A. On the effective date of this act, all functions, personnel, money, appropriations, records, furniture, equipment and other property of the office of homeland security or the homeland security advisor of the governor's office are transferred to the homeland security and emergency management department.

B. On the effective date of this act, all functions, personnel, money, appropriations, records, furniture, equipment and other property of the office of emergency management and the homeland security and emergency management program of the department of public safety are transferred to the homeland security and emergency management department.

C. On the effective date of this act, contractual obligations of the office of homeland security or the homeland security advisor of the governor's office or of the technical and emergency support division of the department of public safety or the department of public safety pertaining to the homeland security and emergency management program shall be binding on the homeland security and emergency management department.

D. On the effective date of this act, all references in the law to the office of homeland security or the homeland security advisor of the governor's office shall be deemed to be references to the homeland security and emergency management department.

E. On the effective date of this act, references in law to the State Civil Emergency Preparedness Act shall be deemed to be references to the All Hazard Emergency Management Act. All references in law to the Emergency Management Act shall be deemed to be references to the Hazardous Materials Emergency Response Act.

### **Chapter 291 Section 36 Laws 2007**

Section 36. REPEAL.--Section 12-12-22 NMSA 1978 (being Laws 1983, Chapter 80, Section 6, as amended) is repealed.

### **Chapter 291 Section 37 Laws 2007**

Section 37. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 227, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 292**

AN ACT

RELATING TO EDUCATION; ENACTING THE STATEWIDE CYBER ACADEMY ACT; PROVIDING POWERS AND DUTIES; PROVIDING STANDARDS FOR ALLOCATING THE EDUCATIONAL TECHNOLOGY DEFICIENCY CORRECTION FUND.

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

### **Chapter 292 Section 1 Laws 2007**

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

"SHORT TITLE.--Sections 1 through 7 of this act may be cited as the "Statewide Cyber Academy Act"."

## **Chapter 292 Section 2 Laws 2007**

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

"DEFINITIONS.--As used in the Statewide Cyber Academy Act:

A. "course provider" means a person that supplies educational course content for distance learning courses;

B. "distance learning course" means an educational course that is taught where the student and primary instructor are separated by time or space and linked by technology;

C. "distance learning student" means a qualified student as defined in Section 22-8-2 NMSA 1978 who is enrolled in one or more distance learning courses for credit;

D. "learning management system" means a software application that facilitates online instruction and interaction between teachers and distance learning students;

E. "local distance learning site" means a school district or charter school that offers and grants credit for distance learning courses to distance learning students enrolled in the school district or charter school;

F. "primary enrolling district" means the school district or charter school in which the distance learning student is enrolled;

G. "regional host" means an educational institution, school district or other entity selected by the statewide cyber academy to coordinate the delivery of distance learning courses within a broad geographic region of the state;

H. "service center" means the single central facility where administrative and management functions of the statewide cyber academy are physically located in New Mexico; and

I. "statewide cyber academy" means the department's collaborative program that offers distance learning courses to all local distance learning sites."

## **Chapter 292 Section 3 Laws 2007**

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

"STATEWIDE CYBER ACADEMY CREATED.--The "statewide cyber academy" program is created in the department. The statewide cyber academy is a collaborative program among the department, the higher education department, telecommunications networks and representatives of other state agencies engaged in providing distance education. The statewide cyber academy shall provide distance learning courses for grades six through twelve and professional development for teachers, instructional support providers and school administrators."

### **Chapter 292 Section 4 Laws 2007**

Section 4. A new section of the Public School code is enacted to read:

"DEPARTMENT RULES.--The department shall promulgate rules to carry out the provisions of the Statewide Cyber Academy Act."

### **Chapter 292 Section 5 Laws 2007**

Section 5. A new section of the Public School Code is enacted to read:

"STATEWIDE CYBER ACADEMY--DUTIES.--The statewide cyber academy shall:

A. establish a distance learning course delivery system that is efficient and cost-effective and that uses a statewide service center and regional hosts to provide approved distance learning courses;

B. select regional hosts based on pre-existing experience and capacity to facilitate the delivery of distance educational programs, including public

post-secondary educational institutions, regional education cooperatives and school districts;

C. provide technical and program support to regional hosts and local distance learning sites;

D. ensure that all distance learning courses offered by course providers are taught by highly qualified teachers or members of the faculty of accredited

post-secondary educational institutions and meet state academic content and performance standards;

E. provide for reasonable and equitable means to allocate the costs of distance learning courses among the statewide cyber academy, the course providers and the school districts whose students are enrolled in a distance learning course;

F. give first priority to the delivery of distance learning courses for credit to distance learning students who have the greatest need because of geographic location or circumstances in which a school district may have difficulty delivering essential course instruction due to financial restraints or lack of highly qualified teachers; provided that in fiscal year 2008 the statewide cyber academy shall include, among those distance learning students who are determined to have the greatest need, distance learning students served by school districts that are members of regional education cooperatives three, eight and nine;

G. ensure that the statewide cyber academy's learning management system is compatible with school district and department data collection, analysis and reporting systems;

H. ensure that all deficiencies in the infrastructure, hardware and software in the statewide cyber academy are corrected in accordance with educational technology adequacy standards pursuant to Section 22-15A-11 NMSA 1978;

I. comply with all rules governing privacy and confidentiality of student records for secure record storage;

J. offer distance learning courses to distance learning students;

K. offer professional development via distance learning, using a learning management system;

L. assist the council on technology in education in its development of the statewide plan required by Section 22-15A-7 NMSA 1978, including a statewide cyber academy plan that addresses short- and long-range goals;

M. define and coordinate the roles and responsibilities of the collaborating agencies to establish a distance learning governance and accountability framework; and

N. conduct an annual evaluation and provide an annual report to the department and the legislature that includes a detailed report of expenditures; a description of services provided, including the number and location of local distance learning sites, public schools and distance learning students served; the courses offered; the credits generated by local distance learning sites; and student and teacher accountability reporting data."

## **Chapter 292 Section 6 Laws 2007**

Section 6. A new section of the Public School Code is enacted to read:

"DISTANCE LEARNING STUDENTS.--

A. A student must be enrolled in a public school or a state-supported school and must have the permission of the student's local distance education learning site to enroll in a distance learning course. A distance learning student shall only be counted in the student's primary enrolling district for the purpose of determining the membership used to calculate a school district's state equalization guarantee. A student shall have only one primary enrolling district.

B. A home school student may participate in the statewide cyber academy by enrolling for one-half or more of the minimum course requirements approved by the department for public school students in the school district in which the student resides; or, if the student is enrolled for less than one-half of the minimum course requirements, the student may participate in the statewide cyber academy by paying not more than thirty-five percent of the current unit value per curricular unit.

C. A student enrolled in a nonpublic school may participate in the statewide cyber academy if the school in which the student is enrolled enters into a contract with the school district in which the nonpublic school is located.

D. A student who is detained in or committed to a juvenile detention facility or a facility for the long-term care and rehabilitation of delinquent children may participate in the statewide cyber academy if the facility in which the student is enrolled enters into a contract with the school district in which the facility is located."

## **Chapter 292 Section 7 Laws 2007**

Section 7. A new section of the Public School Code is enacted to read:

"EVALUATION OF REGIONAL EDUCATION COOPERATIVE DISTANCE LEARNING NETWORKS.--A network developed by regional education cooperatives three, eight and nine shall serve as a regional host in fiscal year 2008. The statewide cyber academy shall provide a preliminary report to the governor and the legislature by January 1, 2008 on the quality and cost-effectiveness of the provision of distance learning courses by the regional education cooperatives. At the end of fiscal year 2008, the statewide cyber academy shall prepare a final report on the quality and cost-effectiveness of services provided, including whether the services increased the rigor of school district and charter school curricula, and make recommendations for the expansion to other regional education cooperatives."

## **Chapter 292 Section 8 Laws 2007**

Section 8. Section 22-15A-7 NMSA 1978 (being Laws 1994, Chapter 96, Section 7) is amended to read:

"22-15A-7. COUNCIL DUTIES.--The council shall:

A. advise the bureau on implementation of the provisions of the Technology for Education Act;

B. work with the bureau to conduct periodic assessments of the need for educational technology in the public school system to support on-site and distance learning and make recommendations to the department on how to meet those needs;

C. promote the collaborative development and implementation of educational technologies, projects and practices to enhance on-site and distance learning instruction capabilities;

D. develop and recommend to the department a statewide plan to infuse educational technology into the public school system in support of state and national education goals, including a statewide cyber academy plan that states short- and long-range goals for distance learning; and

E. provide assistance to the bureau in review of school district technology plans to support on-site and distance learning."

## **Chapter 292 Section 9 Laws 2007**

Section 9. Section 22-15A-11 NMSA 1978 (being Laws 2005, Chapter 222, Section 2) is amended to read:

### **"22-15A-11. EDUCATIONAL TECHNOLOGY DEFICIENCIES--CORRECTION.--**

A. No later than September 1, 2005, the bureau, with the advice of the council and the office of the chief information officer, shall define and develop minimum educational technology adequacy standards to supplement the adequacy standards developed by the public school capital outlay council for school districts to use to identify outstanding serious deficiencies in educational technology infrastructure.

B. A school district shall use the standards to complete a self-assessment of the outstanding educational technology deficiencies within the school district and provide cost projections to correct the outstanding deficiencies.

C. The bureau shall develop a methodology for prioritizing projects that will correct the deficiencies.

D. After a public hearing and to the extent that money is available in the educational technology deficiency correction fund, the bureau shall approve allocations from the fund on the established priority basis and, working with the school district and pursuant to the Procurement Code, enter into contracts to correct the deficiencies.

E. No allocation shall be made pursuant to this section unless:

(1) the method for prioritizing projects developed by the bureau has been reviewed and approved by the council;

(2) the school district has agreed to consult and coordinate with the public school facilities authority before installing any educational technology infrastructure;

(3) the council has approved the proposed allocation; and

(4) for the 2009 and subsequent fiscal years, the initial assessment required in the Technology for Education Act has been verified by an independent third party as determined in consultation with the public school capital outlay council.

F. In entering into contracts to correct deficiencies pursuant to this section, the bureau shall include such terms and conditions as necessary to ensure that the state money is expended in the most prudent manner possible consistent with the original purpose."

## **Chapter 292 Section 10 Laws 2007**

Section 10. A new section of the Technology for Education Act is enacted to read:

"OBSOLETE COMPUTER REPLACEMENT.--To the extent that money has been appropriated to replace functionally obsolete computers and network devices in public schools, including charter schools, on a five-year cycle, the bureau shall base allocations on a ratio of one computer to three students in each school. Prior to making allocations, the bureau shall compile and maintain an inventory of computer and network devices in public schools, including charter schools, and develop a methodology for prioritizing the replacement of computers and network devices to ensure that state money is expended in the most prudent manner possible consistent with the original purpose."

## **Chapter 292 Section 11 Laws 2007**

Section 11. RECOMPILATION.--Section 22-13-27 NMSA 1978 (being Laws 2003, Chapter 162, Section 2) is recompiled into the Statewide Cyber Academy Act.

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Senate Education Committee Substitute

for Senate Bill 209, as amended

Approved April 2, 2007

# **LAWS 2007, CHAPTER 293**

## **AN ACT**

RELATING TO EDUCATION; ENACTING THE STATEWIDE CYBER ACADEMY ACT; PROVIDING POWERS AND DUTIES; PROVIDING STANDARDS FOR ALLOCATING THE EDUCATIONAL TECHNOLOGY DEFICIENCY CORRECTION FUND.

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

### **Chapter 293 Section 1 Laws 2007**

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

"SHORT TITLE.--Sections 1 through 7 of this act may be cited as the "Statewide Cyber Academy Act"."

### **Chapter 293 Section 2 Laws 2007**

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

"DEFINITIONS.--As used in the Statewide Cyber Academy Act:

A. "course provider" means a person that supplies educational course content for distance learning courses;

B. "distance learning course" means an educational course that is taught where the student and primary instructor are separated by time or space and linked by technology;

C. "distance learning student" means a qualified student as defined in Section 22-8-2 NMSA 1978 who is enrolled in one or more distance learning courses for credit;

D. "learning management system" means a software application that facilitates online instruction and interaction between teachers and distance learning students;

E. "local distance learning site" means a school district or charter school that offers and grants credit for distance learning courses to distance learning students enrolled in the school district or charter school;

F. "primary enrolling district" means the school district or charter school in which the distance learning student is enrolled;

G. "regional host" means an educational institution, school district or other entity selected by the statewide cyber academy to coordinate the delivery of distance learning courses within a broad geographic region of the state;

H. "service center" means the single central facility where administrative and management functions of the statewide cyber academy are physically located in New Mexico; and

I. "statewide cyber academy" means the department's collaborative program that offers distance learning courses to all local distance learning sites."

### **Chapter 293 Section 3 Laws 2007**

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

"STATEWIDE CYBER ACADEMY CREATED.--The "statewide cyber academy" program is created in the department. The statewide cyber academy is a collaborative program among the department, the higher education department, telecommunications networks and representatives of other state agencies engaged in providing distance education. The statewide cyber academy shall provide distance learning courses for grades six through twelve and professional development for teachers, instructional support providers and school administrators."

### **Chapter 293 Section 4 Laws 2007**

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

"DEPARTMENT RULES.--The department shall promulgate rules to carry out the provisions of the Statewide Cyber Academy Act."

### **Chapter 293 Section 5 Laws 2007**

Section 5. A new section of the Public School Code is enacted to read:

"STATEWIDE CYBER ACADEMY--DUTIES.--The statewide cyber academy shall:

A. establish a distance learning course delivery system that is efficient and cost-effective and that uses a statewide service center and regional hosts to provide approved distance learning courses;

B. select regional hosts based on pre-existing experience and capacity to facilitate the delivery of distance educational programs, including public post-secondary educational institutions, regional education cooperatives and school districts;

C. provide technical and program support to regional hosts and local distance learning sites;

D. ensure that all distance learning courses offered by course providers are taught by highly qualified teachers or members of the faculty of accredited post-secondary educational institutions and meet state academic content and performance standards;

E. provide for reasonable and equitable means to allocate the costs of distance learning courses among the statewide cyber academy, the course providers and the school districts whose students are enrolled in a distance learning course;

F. give first priority to the delivery of distance learning courses for credit to distance learning students who have the greatest need because of geographic location or circumstances in which a school district may have difficulty delivering essential course instruction due to financial restraints or lack of highly qualified teachers; provided that in fiscal year 2008 the statewide cyber academy shall include, among those distance learning students who are determined to have the greatest need, distance learning students served by school districts that are members of regional education cooperatives three, eight and nine;

G. ensure that the statewide cyber academy's learning management system is compatible with school district and department data collection, analysis and reporting systems;

H. ensure that all deficiencies in the infrastructure, hardware and software in the statewide cyber academy are corrected in accordance with educational technology adequacy standards pursuant to Section 22-15A-11 NMSA 1978;

I. comply with all rules governing privacy and confidentiality of student records for secure record storage;

J. offer distance learning courses to distance learning students;

K. offer professional development via distance learning, using a learning management system;

L. assist the council on technology in education in its development of the statewide plan required by Section 22-15A-7 NMSA 1978, including a statewide cyber academy plan that addresses short- and long-range goals;

M. define and coordinate the roles and responsibilities of the collaborating agencies to establish a distance learning governance and accountability framework; and

N. conduct an annual evaluation and provide an annual report to the department and the legislature that includes a detailed report of expenditures; a description of

services provided, including the number and location of local distance learning sites, public schools and distance learning students served; the courses offered; the credits generated by local distance learning sites; and student and teacher accountability reporting data."

## **Chapter 293 Section 6 Laws 2007**

Section 6. A new section of the Public School Code is enacted to read:

"DISTANCE LEARNING STUDENTS.--

A. A student must be enrolled in a public school or a state-supported school and must have the permission of the student's local distance education learning site to enroll in a distance learning course. A distance learning student shall only be counted in the student's primary enrolling district for the purpose of determining the membership used to calculate a school district's state equalization guarantee. A student shall have only one primary enrolling district.

B. A home school student may participate in the statewide cyber academy by enrolling for one-half or more of the minimum course requirements approved by the department for public school students in the school district in which the student resides; or, if the student is enrolled for less than one-half of the minimum course requirements, the student may participate in the statewide cyber academy by paying not more than thirty-five percent of the current unit value per curricular unit.

C. A student enrolled in a nonpublic school may participate in the statewide cyber academy if the school in which the student is enrolled enters into a contract with the school district in which the nonpublic school is located.

D. A student who is detained in or committed to a juvenile detention facility or a facility for the long-term care and rehabilitation of delinquent children may participate in the statewide cyber academy if the facility in which the student is enrolled enters into a contract with the school district in which the facility is located."

## **Chapter 293 Section 7 Laws 2007**

Section 7. A new section of the Public School Code is enacted to read:

"EVALUATION OF REGIONAL EDUCATION COOPERATIVE DISTANCE LEARNING NETWORKS.--A network developed by regional education cooperatives three, eight and nine shall serve as a regional host in fiscal year 2008. The statewide cyber academy shall provide a preliminary report to the governor and the legislature by January 1, 2008 on the quality and cost-effectiveness of the provision of distance learning courses by the regional education cooperatives. At the end of fiscal year 2008, the statewide cyber academy shall prepare a final report on the quality and cost-effectiveness of services provided, including whether the services increased the rigor of

school district and charter school curricula, and make recommendations for the expansion to other regional education cooperatives."

## **Chapter 293 Section 8 Laws 2007**

Section 8. Section 22-15A-7 NMSA 1978 (being Laws 1994, Chapter 96, Section 7) is amended to read:

"22-15A-7. COUNCIL DUTIES.--The council shall:

A. advise the bureau on implementation of the provisions of the Technology for Education Act;

B. work with the bureau to conduct periodic assessments of the need for educational technology in the public school system to support on-site and distance learning and make recommendations to the department on how to meet those needs;

C. promote the collaborative development and implementation of educational technologies, projects and practices to enhance on-site and distance learning instruction capabilities;

D. develop and recommend to the department a statewide plan to infuse educational technology into the public school system in support of state and national education goals, including a statewide cyber academy plan that states short- and long-range goals for distance learning; and

E. provide assistance to the bureau in review of school district technology plans to support on-site and distance learning."

## **Chapter 293 Section 9 Laws 2007**

Section 9. Section 22-15A-11 NMSA 1978 (being Laws 2005, Chapter 222, Section 2) is amended to read:

"22-15A-11. EDUCATIONAL TECHNOLOGY DEFICIENCIES--CORRECTION.--

A. No later than September 1, 2005, the bureau, with the advice of the council and the office of the chief information officer, shall define and develop minimum educational technology adequacy standards to supplement the adequacy standards developed by the public school capital outlay council for school districts to use to identify outstanding serious deficiencies in educational technology infrastructure.

B. A school district shall use the standards to complete a self-assessment of the outstanding educational technology deficiencies within the school district and provide cost projections to correct the outstanding deficiencies.

C. The bureau shall develop a methodology for prioritizing projects that will correct the deficiencies.

D. After a public hearing and to the extent that money is available in the educational technology deficiency correction fund, the bureau shall approve allocations from the fund on the established priority basis and, working with the school district and pursuant to the Procurement Code, enter into contracts to correct the deficiencies.

E. No allocation shall be made pursuant to this section unless:

(1) the method for prioritizing projects developed by the bureau has been reviewed and approved by the council;

(2) the school district has agreed to consult and coordinate with the public school facilities authority before installing any educational technology infrastructure;

(3) the council has approved the proposed allocation; and

(4) for the 2009 and subsequent fiscal years, the initial assessment required in the Technology for Education Act has been verified by an independent third party as determined in consultation with the public school capital outlay council.

F. In entering into contracts to correct deficiencies pursuant to this section, the bureau shall include such terms and conditions as necessary to ensure that the state money is expended in the most prudent manner possible consistent with the original purpose."

## **Chapter 293 Section 10 Laws 2007**

Section 10. A new section of the Technology for Education Act is enacted to read:

"OBSOLETE COMPUTER REPLACEMENT.--To the extent that money has been appropriated to replace functionally obsolete computers and network devices in public schools, including charter schools, on a five-year cycle, the bureau shall base allocations on a ratio of one computer to three students in each school. Prior to making allocations, the bureau shall compile and maintain an inventory of computer and network devices in public schools, including charter schools, and develop a methodology for prioritizing the replacement of computers and network devices to ensure that state money is expended in the most prudent manner possible consistent with the original purpose."

## **Chapter 293 Section 11 Laws 2007**

Section 11. RECOMPILATION.--Section 22-13-27 NMSA 1978 (being Laws 2003, Chapter 162, Section 2) is recompiled into the Statewide Cyber Academy Act.

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House Education Committee Substitute

for House Bill 201, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 294**

AN ACT

RELATING TO SCHOOLS; PROVIDING CRITERIA FOR ALLOCATIONS FROM THE EDUCATIONAL TECHNOLOGY DEFICIENCY CORRECTION FUND.

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

### **Chapter 294 Section 1 Laws 2007**

Section 1. Section 22-15A-11 NMSA 1978 (being Laws 2005, Chapter 222, Section 2) is amended to read:

"22-15A-11. EDUCATIONAL TECHNOLOGY DEFICIENCIES--CORRECTION.--

A. No later than September 1, 2005, the bureau, with the advice of the council and the office of the chief information officer, shall define and develop minimum educational technology adequacy standards to supplement the adequacy standards developed by the public school capital outlay council for school districts to use to identify outstanding serious deficiencies in educational technology infrastructure.

B. A school district shall use the standards to complete a self-assessment of the outstanding educational

technology deficiencies within the school district and provide cost projections to correct the outstanding deficiencies.

C. The bureau shall develop a methodology for prioritizing projects that will correct the deficiencies.

D. After a public hearing and to the extent that money is available in the educational technology deficiency correction fund, the bureau shall approve allocations from the fund on the established priority basis and, working with the school district and pursuant to the Procurement Code, enter into contracts to correct the deficiencies.

E. No allocation shall be made pursuant to this section unless:

(1) the method for prioritizing projects developed by the bureau has been reviewed and approved by the council;

(2) the school district has agreed to consult and coordinate with the public school facilities authority before installing any educational technology infrastructure;

(3) the council has approved the proposed allocation; and

(4) for the 2009 and subsequent fiscal years, the initial assessment required in the Technology for Education Act has been verified by an independent third party as determined in consultation with the public school capital outlay council.

F. In entering into contracts to correct deficiencies pursuant to this section, the bureau shall include such terms and conditions as necessary to ensure that the state money is expended in the most prudent manner possible consistent with the original purpose."

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Senate Bill 394, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 295**

### **AN ACT**

RELATING TO EDUCATION; CLARIFYING THE DUTIES OF THE PUBLIC EDUCATION DEPARTMENT TO CONSULT WITH INDIAN TRIBES; CHANGING THE COMPOSITION OF THE INDIAN EDUCATION ADVISORY COUNCIL; AMENDING THE INDIAN EDUCATION ACT.

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

### **Chapter 295 Section 1 Laws 2007**

Section 1. A new section of the Indian Education Act is enacted to read:

"POST-SECONDARY EDUCATION.--The department shall collaborate and coordinate efforts with the higher education department and institutions of higher education, including tribal colleges and teacher education institutions and tribal education departments, to facilitate the successful and seamless transition of American Indian students into post-secondary education and training."

### **Chapter 295 Section 2 Laws 2007**

Section 2. Section 22-23A-3 NMSA 1978 (being Laws 2003, Chapter 151, Section 3) is amended to read:

"22-23A-3. DEFINITIONS.--As used in the Indian Education Act:

- A. "assistant secretary" means the assistant secretary for Indian education;
- B. "government-to-government" means the relationship between a New Mexico tribe and a state government;
- C. "indigenous" means native or tribal groups of the Americas that maintain a cultural identity separate from the surrounding dominant cultures;
- D. "tribal" means pertaining to urban Indians who are residents of New Mexico or to an Indian nation, tribe or pueblo located within New Mexico;
- E. "New Mexico tribe" means an Indian nation, tribe or pueblo located within New Mexico; and
- F. "urban Indian" means a member of a federally recognized tribe or an Alaskan native who lives in an off-reservation urban area and is a New Mexico resident."

### **Chapter 295 Section 3 Laws 2007**

Section 3. Section 22-23A-4 NMSA 1978 (being Laws 2003, Chapter 151, Section 4) is amended to read:

"22-23A-4. RULEMAKING.--

A. The secretary shall ensure that the duties prescribed in the Indian Education Act are carried out and that each division within the department is collaborating to fulfill its responsibilities to tribal students.

B. The secretary shall consult on proposed rules implementing the Indian Education Act with the Indian education advisory council and shall present rules for review and comment at the next semiannual government-to-government meeting pursuant to Section 22-23A-5 NMSA 1978."

### **Chapter 295 Section 4 Laws 2007**

Section 4. Section 22-23A-5 NMSA 1978 (being Laws 2003, Chapter 151, Section 5, as amended) is amended to read:

"22-23A-5. INDIAN EDUCATION DIVISION -- CREATED -- ASSISTANT SECRETARY -- DUTIES.--

A. The "Indian education division" is created within the department. The secretary shall appoint an assistant secretary for Indian education, who shall direct the activities of the division and advise the secretary on development of policy regarding the education of tribal students. The assistant secretary shall also coordinate transition efforts for tribal students in public schools with the higher education department and work to expand appropriate Indian education for tribal students in preschool through grade twenty.

B. The assistant secretary shall coordinate with appropriate administrators and divisions to ensure that department administrators make implementation of the Indian Education Act a priority.

C. The secretary and the assistant secretary, in cooperation with the Indian education advisory council, shall collaborate with state and federal departments and agencies and tribal governments to identify ways such entities can assist the department in the implementation of the Indian Education Act.

D. The secretary and assistant secretary shall convene semiannual government-to-government meetings for the express purpose of receiving input on education of tribal students.

E. In accordance with the rules of the department and after consulting with the Indian education advisory council and determining the resources available within the department, the assistant secretary shall:

(1) provide assistance, including advice on allocation of resources, to school districts and tribes to improve services to meet the educational needs of tribal students based on current published indigenous best practices in education;

(2) provide assistance to school districts and New Mexico tribes in the planning, development, implementation and evaluation of curricula in native languages, culture and history designed for tribal and nontribal students as approved by New Mexico tribes;

(3) develop or select for implementation a challenging, sequential, culturally relevant curriculum to provide instruction to tribal students in pre-kindergarten through sixth grade to prepare them for pre-advanced placement and advanced placement coursework in grades seven through twelve;

(4) provide assistance to school districts, public post-secondary schools and New Mexico tribes to develop curricula and instructional materials in native languages, culture and history in conjunction and by contract with native language practitioners and tribal elders, unless the use of written language is expressly prohibited by the tribe;

(5) conduct indigenous research and evaluation for effective curricula for tribal students;

(6) collaborate with the department to provide distance learning for tribal students in public schools to the maximum limits of the department's abilities;

(7) establish, support and maintain an Indian education advisory council;

(8) enter into agreements with each New Mexico tribe or its authorized educational entity to share programmatic information and to coordinate technical assistance for public schools that serve tribal students;

(9) seek funds to establish and maintain an Indian education office in the northwest corner of the state or other geographical location to implement agreements with each New Mexico tribe or its authorized educational entity, monitor the progress of tribal students and coordinate technical assistance at the public pre-kindergarten to post-secondary schools that serve tribal students;

(10) require school districts to obtain a signature of approval by the New Mexico tribal governments or their government designees residing within school district boundaries, verifying that the New Mexico tribes agree to Indian education policies and procedures pursuant to federal requirements;

(11) seek funds to establish, develop and implement culturally relevant support services for the purposes of increasing the number of tribal teachers, administrators and principals and providing continued professional development for educational assistants, teachers and principals serving tribal students, in conjunction with the Indian education advisory council:

(a) recruitment and retention of highly qualified teachers and administrators;

(b) academic transition programs;

(c) academic financial support;

(d) teacher preparation;

(e) teacher induction; and

(f) professional development;

(12) develop curricula to provide instruction in tribal history and government and develop plans to implement these subjects into history and government courses in school districts throughout the state;

(13) ensure that native language bilingual programs are part of a school district's professional development plan, as provided in Section 22-10A-19.1 NMSA 1978; and

(14) develop a plan to establish a

post-secondary investment system for tribal students to which parents, tribes and the state may contribute."

## **Chapter 295 Section 5 Laws 2007**

Section 5. Section 22-23A-6 NMSA 1978 (being Laws 2003, Chapter 151, Section 6) is amended to read:

"22-23A-6. ADVISORY COUNCIL.--

A. The "Indian education advisory council" is created and shall advise the secretary and assistant secretary on implementation of the provisions of the Indian Education Act. The council consists of sixteen members as follows:

(1) four representatives from the Navajo Nation;

(2) two representatives, one from the Mescalero Apache Tribe and one from the Jicarilla Apache Nation;

(3) four representatives, two from the southern pueblos and two from the northern pueblos;

(4) three urban Indians representing urban areas, including Albuquerque, Gallup and Farmington; and

(5) three at-large representatives, one from the federal bureau of Indian affairs, one from a head start organization and one from the general public, at least one of whom shall be nontribal, but all of whom shall have knowledge of and involvement in the education of tribal students.

B. Members shall be appointed by the secretary with input from New Mexico tribes and organizations involved in the education of tribal students for staggered terms so that the terms of the at-large members and of one-half of each of the tribal representatives end on December 31, 2009 and the terms of the remaining members end on December 31, 2011. Thereafter, appointments shall be for terms of four years. The terms of existing members shall expire on the effective date of this 2007 act.

C. A majority of the members of the Indian education advisory council constitutes a quorum. The advisory council shall elect a chair from its membership.

D. On a semiannual basis, representatives from all New Mexico tribes, members of the commission, the office of the governor, the Indian affairs department, the legislature, the secretary, the assistant secretary and the Indian education advisory council shall meet to assist in evaluating, consolidating and coordinating all activities relating to the education of tribal students.

E. Members of the Indian education advisory council may receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act."

## **Chapter 295 Section 6 Laws 2007**

Section 6. Section 22-23A-7 NMSA 1978 (being Laws 2003, Chapter 151, Section 7) is amended to read:

"22-23A-7. REPORT.--

A. The Indian education division in collaboration with the education division of the federal bureau of Indian affairs and other entities that serve tribal students shall submit an annual statewide tribal education status report no later than November 15 to all New Mexico tribes. The division shall submit the report whether or not entities outside state government collaborate as requested.

B. A school district with tribal lands located within its boundaries shall provide a districtwide tribal education status report to all New Mexico tribes represented within the school district boundaries.

C. The status reports shall be written in a brief format and shall include the following information, through which public school performance is measured and reported to the tribes and disseminated at the semiannual government-to-government meetings held pursuant to Section 22-23A-5 NMSA 1978:

(1) student achievement as measured by a statewide test approved by the department, with results disaggregated by ethnicity;

(2) school safety;

(3) the graduation rate;

(4) attendance;

(5) parent and community involvement;

(6) educational programs targeting tribal students;

(7) financial reports;

(8) current status of federal Indian education policies and procedures;

(9) school district initiatives to decrease the number of student dropouts and increase attendance;

(10) public school use of variable school calendars;

(11) school district consultations with district Indian education committees, school-site parent advisory councils and tribal, municipal and Indian organizations; and

(12) indigenous research and evaluation measures and results for effective curricula for tribal students."

## **Chapter 295 Section 7 Laws 2007**

Section 7. Section 22-23A-8 NMSA 1978 (being Laws 2003, Chapter 151, Section 8) is amended to read:

"22-23A-8. FUND CREATED.--

A. The "Indian education fund" is created in the state treasury. The fund consists of appropriations, gifts, grants and donations and income from investment of the fund. Money in the fund shall not revert. The fund shall be administered by the department, and money in the fund is appropriated to the department to distribute awards to support the Indian Education Act.

B. The department shall ensure that funds appropriated from the Indian education fund shall be used for the purposes stated in the Indian Education Act and shall not be used to correct for previous reductions of program services.

C. The department shall develop procedures and rules for the award of money from the fund. Disbursement of the fund shall be made by warrant of the department of finance and administration pursuant to vouchers signed by the secretary of public education."

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House Bill 892, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 296**

AN ACT

RELATING TO EDUCATION; CLARIFYING THE DUTIES OF THE PUBLIC EDUCATION DEPARTMENT TO CONSULT WITH INDIAN TRIBES; CHANGING THE COMPOSITION OF THE INDIAN EDUCATION ADVISORY COUNCIL; AMENDING THE INDIAN EDUCATION ACT.

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

### **Chapter 296 Section 1 Laws 2007**

Section 1. A new section of the Indian Education Act is enacted to read:

"POST-SECONDARY EDUCATION.--The department shall collaborate and coordinate efforts with the higher education department and institutions of higher education, including tribal colleges and teacher education institutions and tribal education departments, to facilitate the successful and seamless transition of American Indian students into post-secondary education and training."

### **Chapter 296 Section 2 Laws 2007**

Section 2. Section 22-23A-3 NMSA 1978 (being Laws 2003, Chapter 151, Section 3) is amended to read:

"22-23A-3. DEFINITIONS.--As used in the Indian Education Act:

- A. "assistant secretary" means the assistant secretary for Indian education;
- B. "government-to-government" means the relationship between a New Mexico tribe and a state government;
- C. "indigenous" means native or tribal groups of the Americas that maintain a cultural identity separate from the surrounding dominant cultures;
- D. "tribal" means pertaining to urban Indians who are residents of New Mexico or to an Indian nation, tribe or pueblo located within New Mexico;
- E. "New Mexico tribe" means an Indian nation, tribe or pueblo located within New Mexico; and
- F. "urban Indian" means a member of a federally recognized tribe or an Alaska native who lives in an off-reservation urban area and is a New Mexico resident."

### **Chapter 296 Section 3 Laws 2007**

Section 3. Section 22-23A-4 NMSA 1978 (being Laws 2003, Chapter 151, Section 4) is amended to read:

"22-23A-4. RULEMAKING.--

A. The secretary shall ensure that the duties prescribed in the Indian Education Act are carried out and that each division within the department is collaborating to fulfill its responsibilities to tribal students.

B. The secretary shall consult on proposed rules implementing the Indian Education Act with the Indian education advisory council and shall present rules for review and comment at the next semiannual government-to-government meeting pursuant to Section 22-23A-5 NMSA 1978."

### **Chapter 296 Section 4 Laws 2007**

Section 4. Section 22-23A-5 NMSA 1978 (being Laws 2003, Chapter 151, Section 5, as amended) is amended to read:

"22-23A-5. INDIAN EDUCATION DIVISION -- CREATED -- ASSISTANT SECRETARY--DUTIES.--

A. The "Indian education division" is created within the department. The secretary shall appoint an assistant secretary for Indian education, who shall direct the activities of the division and advise the secretary on development of policy regarding the education of tribal students. The assistant secretary shall also coordinate transition efforts for tribal students in public schools with the higher education department and work to expand appropriate Indian education for tribal students in preschool through grade twenty.

B. The assistant secretary shall coordinate with appropriate administrators and divisions to ensure that department administrators make implementation of the Indian Education Act a priority.

C. The secretary and the assistant secretary, in cooperation with the Indian education advisory council, shall collaborate with state and federal departments and agencies and tribal governments to identify ways such entities can assist the department in the implementation of the Indian Education Act.

D. The secretary and assistant secretary shall convene semiannual government-to-government meetings for the express purpose of receiving input on education of tribal students.

E. In accordance with the rules of the department and after consulting with the Indian education advisory council and determining the resources available within the department, the assistant secretary shall:

(1) provide assistance, including advice on allocation of resources, to school districts and tribes to improve services to meet the educational needs of tribal students based on current published indigenous best practices in education;

(2) provide assistance to school districts and New Mexico tribes in the planning, development, implementation and evaluation of curricula in native languages, culture and history designed for tribal and nontribal students as approved by New Mexico tribes;

(3) develop or select for implementation a challenging, sequential, culturally relevant curriculum to provide instruction to tribal students in pre-kindergarten through sixth grade to prepare them for pre-advanced placement and advanced placement coursework in grades seven through twelve;

(4) provide assistance to school districts, public post-secondary schools and New Mexico tribes to develop curricula and instructional materials in native languages, culture and history in conjunction and by contract with native language practitioners and tribal elders, unless the use of written language is expressly prohibited by the tribe;

(5) conduct indigenous research and evaluation for effective curricula for tribal students;

(6) collaborate with the department to provide distance learning for tribal students in public schools to the maximum limits of the department's abilities;

(7) establish, support and maintain an Indian education advisory council;

(8) enter into agreements with each New Mexico tribe or its authorized educational entity to share programmatic information and to coordinate technical assistance for public schools that serve tribal students;

(9) seek funds to establish and maintain an Indian education office in the northwest corner of the state or other geographical location to implement agreements with each New Mexico tribe or its authorized educational entity, monitor the progress of tribal students and coordinate technical assistance at the public pre-kindergarten to post-secondary schools that serve tribal students;

(10) require school districts to obtain a signature of approval by the New Mexico tribal governments or their government designees residing within school district boundaries, verifying that the New Mexico tribes agree to Indian education policies and procedures pursuant to federal requirements;

(11) seek funds to establish, develop and implement culturally relevant support services for the purposes of increasing the number of tribal teachers,

administrators and principals and providing continued professional development for educational assistants, teachers and principals serving tribal students, in conjunction with the Indian education advisory council:

administrators;

- (a) recruitment and retention of highly qualified teachers and

- (b) academic transition programs;

- (c) academic financial support;

- (d) teacher preparation;

- (e) teacher induction; and

- (f) professional development;

- (12) develop curricula to provide instruction in tribal history and government and develop plans to implement these subjects into history and government courses in school districts throughout the state;

- (13) ensure that native language bilingual programs are part of a school district's professional development plan, as provided in Section 22-10A-19.1 NMSA 1978; and

- (14) develop a plan to establish a

post-secondary investment system for tribal students to which parents, tribes and the state may contribute."

## **Chapter 296 Section 5 Laws 2007**

Section 5. Section 22-23A-6 NMSA 1978 (being Laws 2003, Chapter 151, Section 6) is amended to read:

"22-23A-6. ADVISORY COUNCIL.--

A. The "Indian education advisory council" is created and shall advise the secretary and assistant secretary on implementation of the provisions of the Indian Education Act. The council consists of sixteen members as follows:

- (1) four representatives from the Navajo Nation;

- (2) two representatives, one from the Mescalero Apache Tribe and one from the Jicarilla Apache Nation;

(3) four representatives, two from the southern pueblos and two from the northern pueblos;

(4) three urban Indians representing urban areas, including Albuquerque, Gallup and Farmington; and

(5) three at-large representatives, one from the federal bureau of Indian affairs, one from a head start organization and one from the general public, at least one of whom shall be nontribal, but all of whom shall have knowledge of and involvement in the education of tribal students.

B. Members shall be appointed by the secretary with input from New Mexico tribes and organizations involved in the education of tribal students for staggered terms so that the terms of the at-large members and of one-half of each of the tribal representatives end on December 31, 2009 and the terms of the remaining members end on December 31, 2011. Thereafter, appointments shall be for terms of four years. The terms of existing members shall expire on the effective date of this 2007 act.

C. A majority of the members of the Indian education advisory council constitutes a quorum. The advisory council shall elect a chair from its membership.

D. On a semiannual basis, representatives from all New Mexico tribes, members of the commission, the office of the governor, the Indian affairs department, the legislature, the secretary, the assistant secretary and the Indian education advisory council shall meet to assist in evaluating, consolidating and coordinating all activities relating to the education of tribal students.

E. Members of the Indian education advisory council may receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act."

## **Chapter 296 Section 6 Laws 2007**

Section 6. Section 22-23A-7 NMSA 1978 (being Laws 2003, Chapter 151, Section 7) is amended to read:

"22-23A-7. REPORT.--

A. The Indian education division in collaboration with the education division of the federal bureau of Indian affairs and other entities that serve tribal students shall submit an annual statewide tribal education status report no later than November 15 to all New Mexico tribes. The division shall submit the report whether or not entities outside state government collaborate as requested.

B. A school district with tribal lands located within its boundaries shall provide a districtwide tribal education status report to all New Mexico tribes represented within the school district boundaries.

C. The status reports shall be written in a brief format and shall include the following information, through which public school performance is measured and reported to the tribes and disseminated at the semiannual

government-to-government meetings held pursuant to Section 22-23A-5 NMSA 1978:

(1) student achievement as measured by a statewide test approved by the department, with results disaggregated by ethnicity;

(2) school safety;

(3) the graduation rate;

(4) attendance;

(5) parent and community involvement;

(6) educational programs targeting tribal students;

(7) financial reports;

(8) current status of federal Indian education policies and procedures;

(9) school district initiatives to decrease the number of student dropouts and increase attendance;

(10) public school use of variable school calendars;

(11) school district consultations with district Indian education committees, school-site parent advisory councils and tribal, municipal and Indian organizations; and

(12) indigenous research and evaluation measures and results for effective curricula for tribal students."

## **Chapter 296 Section 7 Laws 2007**

Section 7. Section 22-23A-8 NMSA 1978 (being Laws 2003, Chapter 151, Section 8) is amended to read:

"22-23A-8. FUND CREATED.--

A. The "Indian education fund" is created in the state treasury. The fund consists of appropriations, gifts, grants and donations and income from investment of the fund. Money in the fund shall not revert. The fund shall be administered by the department, and money in the fund is appropriated to the department to distribute awards to support the Indian Education Act.

B. The department shall ensure that funds appropriated from the Indian education fund shall be used for the purposes stated in the Indian Education Act and shall not be used to correct for previous reductions of program services.

C. The department shall develop procedures and rules for the award of money from the fund. Disbursement of the fund shall be made by warrant of the department of finance and administration pursuant to vouchers signed by the secretary of public education."

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Senate Bill 1044, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 297**

### **AN ACT**

RELATING TO AVIATION; PROVIDING FOR A MONTHLY DISTRIBUTION TO THE STATE AVIATION FUND; SPECIFYING USES OF THE STATE AVIATION FUND; EXTENDING FOR FIVE YEARS THE DISTRIBUTION TO THE AVIATION FUND FOR THE AIR SERVICE ASSISTANCE PROGRAM; DESIGNATING THE STATE AVIATION FUND AS A NONREVERTING FUND; MAKING AN APPROPRIATION.

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

### **Chapter 297 Section 1 Laws 2007**

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, 2002 through June 30, 2012, 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 297 Section 2 Laws 2007**

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

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

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

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

## **Chapter 297 Section 3 Laws 2007**

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 222, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 298**

AN ACT

RELATING TO AVIATION; PROVIDING FOR A MONTHLY DISTRIBUTION TO THE STATE AVIATION FUND; SPECIFYING USES OF THE STATE AVIATION FUND; EXTENDING FOR FIVE YEARS THE DISTRIBUTION TO THE AVIATION FUND FOR THE AIR SERVICE ASSISTANCE PROGRAM; DESIGNATING THE STATE AVIATION FUND AS A NONREVERTING FUND; MAKING AN APPROPRIATION.

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

### **Chapter 298 Section 1 Laws 2007**

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, 2002 through June 30, 2012, 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 298 Section 2 Laws 2007**

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

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

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

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

## **Chapter 298 Section 3 Laws 2007**

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 205, as amended

Approved April 2, 2007

# **LAWS 2007, CHAPTER 299**

AN ACT

RELATING TO CULTURAL PROPERTIES; ESTABLISHING STATE CULTURAL PROPERTY ON STATE OR FEDERAL LAND FOR REBURIAL OF HUMAN REMAINS AND FUNERARY OBJECTS.

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

**Chapter 299 Section 1 Laws 2007**

Section 1. A new section of Chapter 18, Article 6 NMSA 1978 is enacted to read:

"SHORT TITLE.--This act may be cited as the "Reburial Grounds Act"."

**Chapter 299 Section 2 Laws 2007**

Section 2. A new section of Chapter 18, Article 6 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Reburial Grounds Act:

- A. "department" means the cultural affairs department;
- B. "descendant group" means persons demonstrably related to the remains by consanguinity, family affiliation, clan or direct historical association and includes a Native American nation, band, tribe or pueblo in New Mexico;
- C. "funerary object" means an object or artifact associated with a human burial;
- D. "reburial grounds" means state or federal land set aside pursuant to the Reburial Grounds Act that secures and preserves unmarked graves for remains not claimed by a descendant group;
- E. "remains" means a human body, skeletal remains or mummified remains discovered during construction or other projects or exposed through erosion, excavation, accident or other means on state, federal and private lands and includes a funerary object or artifact associated with the remains; and
- F. "state land" means property owned, controlled or operated by a department, agency, institution or political subdivision of the state."

**Chapter 299 Section 3 Laws 2007**

Section 3. A new section of Chapter 18, Article 6 NMSA 1978 is enacted to read:

"REMAINS DESIGNATED FOR REBURIAL.--Except as otherwise designated by the department, remains shall be reburied in the reburial grounds unless a descendant group that demonstrates a relationship to the remains requests otherwise."

## Chapter 299 Section 4 Laws 2007

Section 4. A new section of Chapter 18, Article 6 NMSA 1978 is enacted to read:

"DESIGNATION OF REBURIAL GROUNDS SITE.--The department shall facilitate the designation of state or federal land for reburial of unmarked remains not claimed by a descendant group and shall:

A. by September 1, 2007, organize a working group that includes representatives of the department, the Indian affairs department and the tribal-state workgroup on repatriation and sacred places to:

(1) recommend rules for the acquisition of remains and the maintenance and preservation of the reburial grounds;

(2) distinguish between remains that can be reburied and remains that cannot; and

(3) establish procedures and priorities for reburying remains held in state collections;

B. by December 30, 2008, promulgate rules for:

(1) plating remains placed in the reburial grounds and ensuring that the information is confidential pursuant to Section 18-6-11.1 NMSA 1978;

(2) accepting and acquiring remains and coordinating activities with the state historic preservation officer;

(3) preserving the natural environment of the reburial grounds;

(4) distinguishing between remains that can be reburied and those that cannot;

(5) working with descendant groups that request access to the reburial grounds for ceremonies; and

(6) providing for security and confidentiality of the site; and

C. by July 1, 2009:

(1) accept the first remains for reburial, including remains currently at the museum of New Mexico, the museum of Indian arts and culture and the department;

(2) begin platting the reburial grounds so that reburied remains are not disturbed by later burials and so that the plat is confidential pursuant to Section 18-6-11.1 NMSA 1978; and

(3) provide security for the reburial grounds."

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Senate Bill 581, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 300**

### AN ACT

RELATING TO CULTURAL PROPERTIES; ESTABLISHING STATE CULTURAL PROPERTY ON STATE OR FEDERAL LAND FOR REBURIAL OF HUMAN REMAINS AND FUNERARY OBJECTS.

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

### **Chapter 300 Section 1 Laws 2007**

Section 1. A new section of Chapter 18, Article 6 NMSA 1978 is enacted to read:

"SHORT TITLE.--This act may be cited as the "Reburial Grounds Act"."

### **Chapter 300 Section 2 Laws 2007**

Section 2. A new section of Chapter 18, Article 6 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Reburial Grounds Act:

- A. "department" means the cultural affairs department;
- B. "descendant group" means persons demonstrably related to the remains by consanguinity, family affiliation, clan or direct historical association and includes a Native American nation, band, tribe or pueblo in New Mexico;
- C. "funerary object" means an object or artifact associated with a human burial;
- D. "reburial grounds" means state or federal land set aside pursuant to the Reburial Grounds Act that secures and preserves unmarked graves for remains not claimed by a descendant group;

E. "remains" means a human body, skeletal remains or mummified remains discovered during construction and other projects or exposed through erosion, excavation or accident or other means on state, federal and private lands and includes a funerary object or artifact associated with the remains; and

F. "state land" means property owned, controlled or operated by a department, agency, institution or political subdivision of the state."

### **Chapter 300 Section 3 Laws 2007**

Section 3. A new section of Chapter 18, Article 6 NMSA 1978 is enacted to read:

"REMAINS DESIGNATED FOR REBURIAL.--Except as otherwise designated by the department, remains shall be reburied in the reburial grounds unless a descendant group that demonstrates a relationship to the remains requests otherwise."

### **Chapter 300 Section 4 Laws 2007**

Section 4. A new section of Chapter 18, Article 6 NMSA 1978 is enacted to read:

"DESIGNATION OF REBURIAL GROUNDS SITE.--The department shall facilitate the designation of state or federal land for reburial of unmarked remains not claimed by a descendant group and shall:

A. by September 1, 2007, organize a working group that includes representatives of the department, the Indian affairs department and the tribal-state workgroup on repatriation and sacred places to:

(1) recommend rules for the acquisition of remains and the maintenance and preservation of the reburial grounds;

(2) distinguish between remains that can be reburied and remains that cannot; and

(3) establish procedures and priorities for reburying remains held in state collections;

B. by December 30, 2008, promulgate rules for:

(1) platting remains placed in the reburial grounds and ensuring that the information is confidential pursuant to Section 18-6-11.1 NMSA 1978;

(2) accepting and acquiring remains and coordinating activities with the state historic preservation officer;

(3) preserving the natural environment of the reburial grounds;

(4) distinguishing between remains that can be reburied and those that cannot;

(5) working with descendant groups that request access to the reburial grounds for ceremonies; and

(6) providing for security and confidentiality of the site; and

C. by July 1, 2009:

(1) accept the first remains for reburial, including remains currently at the museum of New Mexico, the museum of Indian arts and culture and the department;

(2) begin platting the reburial grounds so that reburied remains are not disturbed by later burials and so that the plat is confidential pursuant to Section 18-6-11.1 NMSA 1978; and

(3) provide security for the reburial grounds."

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House Bill 73, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 301**

AN ACT

RELATING TO MINING; AMENDING, REPEALING AND ENACTING SECTIONS OF CHAPTER 69 NMSA 1978 TO PROVIDE FOR MINE SAFETY AND ENFORCEMENT OF MINE SAFETY LAWS AND RULES.

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

### **Chapter 301 Section 1 Laws 2007**

Section 1. Section 69-1-6 NMSA 1978 (being Laws 1979, Chapter 68, Section 3, as amended) is amended to read:

"69-1-6. STATE MINE INSPECTOR DUTIES--STATUS.--

A. The state mine inspector is assigned to the New Mexico institute of mining and technology.

B. The board of regents of the New Mexico institute of mining and technology and the mining safety board may recommend the names of qualified individuals to the governor for appointment as the state mine inspector.

C. In addition to those duties assigned to the state mine inspector by the board of regents of the New Mexico institute of mining and technology, by the mining safety board and by statute, the state mine inspector shall cooperate with the director of the mining and minerals division of the energy, minerals and natural resources department to assist the director in the performance of the director's duties."

## **Chapter 301 Section 2 Laws 2007**

Section 2. Section 69-5-7 NMSA 1978 (being Laws 1933, Chapter 153, Section 14, as amended) is amended to read:

"69-5-7. DUTIES--STATE MINE INSPECTOR--DIRECTOR OF MINING AND MINERALS.--

A. The state mine inspector shall:

(1) develop and maintain mine safety and health training programs;

(2) upon notification of any explosion or other catastrophic event at a mine in which the lives of mine workers are jeopardized or in which fatalities have occurred, allocate available resources within a twenty-four-hour time period to assist the mine operator in the rescue of persons and the subsequent accident investigation;

(3) upon request from any operator, provide compliance assistance to include on-site audits to any mine or mine operator within the state to aid in the health and safety of mine workers and mine operators;

(4) if a mine is found to be unsafe during an inspection, give written notice that the mine is unsafe to the owner, operator or manager of the mine with an explanation for the notice;

(5) support and maintain a uniform system of mine bell signals and furnish a copy of the signal system to each underground mine operator within the state. Automated hoists shall be exempt from compliance with the bell signal requirements;

(6) implement a program of certifying mine personnel as provided by law;  
and

(7) make a report to the governor on or before June 1 of each year, which report covers the preceding calendar year and contains a review of the official acts of the inspector.

B. The director of the mining and minerals division of the energy, minerals and natural resources department shall:

(1) cooperate with the state mine inspector to assist the state mine inspector in the performance of the state mine inspector's duties, including providing the state mine inspector with mine registration and other information collected by the department;

(2) provide an annual resources report to the governor that shall include statistics of the number of persons employed in mining, the production and value thereof; and

(3) have right of entry to the mines as may be required to fulfill the director's statutory duties."

### **Chapter 301 Section 3 Laws 2007**

Section 3. Section 69-5-9 NMSA 1978 (being Laws 1933, Chapter 153, Section 15) is amended to read:

"69-5-9. INSPECTIONS--RIGHT OF ENTRY--OPERATOR'S REPRESENTATIVE.--The state mine inspector is given authority at all reasonable times to:

A. enter and inspect any mine in the state in such manner as not to impede or obstruct the workings of the mine; and

B. require that the mine owner, operator or manager at all times furnish means necessary for such entry, inspection, examination and inquiry."

### **Chapter 301 Section 4 Laws 2007**

Section 4. Section 69-5-10 NMSA 1978 (being Laws 1933, Chapter 153, Section 16) is amended to read:

"69-5-10. COMPLIANCE ASSISTANCE VISIT RECORD--OPERATOR'S COPY.-  
-The state mine inspector shall make an entry of record in the state mine inspector's office of each compliance assistance visit and shall furnish the operator a copy thereof."

### **Chapter 301 Section 5 Laws 2007**

Section 5. Section 69-5-14 NMSA 1978 (being Laws 1933, Chapter 153, Section 20, as amended) is amended to read:

"69-5-14. ORDERING DANGEROUS CONDITIONS IN MINES REMOVED OR REMOVAL OF WORKERS FROM DANGER ZONES.--When any mine or portion of a mine or machine, device, apparatus or equipment pertaining to a mine, in the judgment of the state mine inspector, is in so dangerous a condition from any cause or creates such a hazard as to jeopardize life or health, the state mine inspector shall at once direct the management or operator of the mine to remove the dangerous condition or safeguard the equipment. Should the state mine inspector find during inspection of the mine a dangerous condition existing in the mine that might cause loss of life or serious personal injury to the employees, the state mine inspector has the right to require the operator to immediately withdraw all persons from the dangerous places or from the entire mine. In the event the operator fails or refuses to immediately comply with the requirements or instructions of the state mine inspector, the state mine inspector shall issue an order closing all or any portion of the mine to regular operations and notify a representative of the miners and the mine safety and health administration immediately."

### **Chapter 301 Section 6 Laws 2007**

Section 6. Section 69-5-17 NMSA 1978 (being Laws 1933, Chapter 153, Section 23, as amended by Laws 2006, Chapter 102, Section 2 and by Laws 2006, Chapter 106, Section 2) is amended to read:

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

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

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

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

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

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

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

## **Chapter 301 Section 7 Laws 2007**

Section 7. A new section of Chapter 69, Article 5 NMSA 1978 is enacted to read:

"ATTORNEY GENERAL.--The attorney general shall appoint a counsel as needed to support the enforcement of the state mine inspector's office and the duties of the state mine inspector and the bureau of mine safety."

## **Chapter 301 Section 8 Laws 2007**

Section 8. Section 69-8-2 NMSA 1978 (being Laws 1961, Chapter 136, Section 2) is amended to read:

"69-8-2. DEFINITIONS.--As used in the Mining Safety Act:

A. "accident", pursuant to 30 C.F.R. 50.2, means:

- (1) a death of an individual at a mine;
- (2) an injury that has a reasonable potential to cause death to an individual at a mine;
- (3) an entrapment of an individual for more than thirty minutes or that has a reasonable potential to cause death;
- (4) an unplanned inundation of a mine by a liquid or gas;
- (5) an unplanned ignition or explosion of gas or dust;
- (6) an unplanned mine fire in an underground mine that is not extinguished within ten minutes of discovery and an unplanned mine fire within a surface mine or surface area of an underground mine that is not extinguished within thirty minutes;
- (7) an unplanned ignition or explosion of a blasting agent or an explosive;

(8) an unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in use or an unplanned roof or rib fall in active workings that impairs ventilation or impedes passage;

(9) a coal or rock outburst that causes withdrawal of miners or that disrupts regular mining activity for more than one hour;

(10) an unstable condition at an impoundment, refuse pile or culm bank that requires emergency action in order to prevent failure or that causes individuals to evacuate an area or failure of an impoundment, refuse pile or culm bank;

(11) damage to hoisting equipment in a shaft or slope that endangers an individual or that interferes with use of the equipment for more than thirty minutes; or

(12) an event at a mine that causes death or bodily injury to an individual not at the mine at the time the event occurs;

B. "employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee or to a place of employment;

C. "employee" means any person suffered or permitted to work in a mining occupation or pursuit by an employer;

D. "mine", pursuant to 30 C.F.R. 50.2, means:

(1) an area of land from which minerals are extracted in nonliquid form or, if in liquid form, are extracted with workers underground;

(2) private ways and roads appurtenant to an area described in Paragraph (1) of this subsection; and

(3) lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools or other property, including impoundments, retention dams and tailings ponds, on the surface or underground, used in, to be used in or resulting from, the work of extracting such minerals from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of such minerals, or the work of preparing coal or other minerals, and includes custom coal preparation facilities;

E. "operator", pursuant to 30 C.F.R. 50.2, means:

(1) any owner, lessee or other person that operates, controls or supervises a coal mine; or

(2) the person, partnership, association or corporation, or subsidiary of a corporation, operating a metal or nonmetal mine and owning the right to do so, including any agent thereof charged with responsibility for the operation of such mine;

F. "person" means an individual, partnership, association, corporation, business trust, receiver, trustee, legal representative or successor to any of the foregoing;

G. "place of employment" means any place in or about which the employee is suffered or permitted to work;

H. "mining occupations or pursuits" includes mining, smelting and the operation of a mill, ore house or treatment plant in which ore or rock is processed; and

I. "inspector" means the state mine inspector."

## **Chapter 301 Section 9 Laws 2007**

Section 9. Section 69-8-3 NMSA 1978 (being Laws 1961, Chapter 136, Section 3, as amended) is amended to read:

"69-8-3. MINING SAFETY BOARD.--

A. There is created a "mining safety board", referred to in Chapter 69, Article 8 NMSA 1978 as the "board", consisting of thirteen members. The members of the board shall represent and balance management and

non-management employees at coal, metal-nonmetal and sand and gravel operations throughout New Mexico. The members of the board shall be appointed by the governor for terms of six years or until their successors are appointed and qualified. Vacancies shall be filled by appointment for the unexpired term by the governor in the same manner as the original appointments. Members absent for three or more consecutive meetings shall be considered inactive. The chair of the board shall ask the governor's office to appoint a new member to the board if a current member becomes inactive. The inspector and the secretary of energy, minerals and natural resources shall be ex-officio members of the board but shall have no vote.

B. Voting members of the board shall receive compensation pursuant to the Per Diem and Mileage Act. The inspector is authorized and directed to provide the board with such clerical, technical, legal and other assistance as shall be necessary to permit the board to perform its duties as provided in the Mining Safety Act."

## **Chapter 301 Section 10 Laws 2007**

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"69-8-4. DUTIES OF THE BOARD--RULEMAKING.--

A. The board shall, after public hearing, adopt rules for the protection of the life and safety of employees and to carry out the intent of the Mining Safety Act. The board may appoint a special committee of employers, employees and experts to assist in the development of proposed rules. The inspector may make recommendations to the board as necessary to carry out the intent of the Mining Safety Act.

B. Notice of the subject, time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed rule may be obtained shall be:

(1) published at least thirty days prior to the hearing date in a newspaper of general circulation in the state and in the New Mexico register, if published; and

(2) mailed at least thirty days prior to the hearing date to all persons that have made a written request to the board or the inspector for advance notice of hearings.

C. The board shall allow all interested persons reasonable opportunity to submit data, views or arguments orally or in writing. The board may designate a hearing officer to take evidence in the hearing. Any person that provides comments shall be given written notice of the action of the board.

D. All rules and regulations shall be filed in accordance with the State Rules Act."

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Section 11. A new section of the Mining Safety Act is enacted to read:

"DUTIES OF THE BOARD--APPEAL OF CERTIFICATION ACTIONS BY INSPECTOR.--

A. A person who is the subject of an action of the inspector pursuant to Subsection D of Section 69-14-4 NMSA 1978 may file a written petition for review before the board within twenty days after service of the notice provided in Subsection E of Section 69-14-4 NMSA 1978. Unless a timely petition for review is made, the decision of the inspector shall be final and not subject to judicial review.

B. If a timely petition for review is made, the board shall consider the petition within ninety days after receipt of the petition. The board shall notify the petitioner and the inspector of the date, time and place of the review.

C. The board shall review the record compiled before the inspector and shall allow any party to submit arguments. Prior to the date set for review, if a party shows to the satisfaction of the board that there is good reason to allow additional evidence on an

issue being challenged, the board shall allow additional evidence to be taken. Based on the review of the evidence and the arguments of the parties, the board shall sustain, modify or reverse the action of the inspector.

D. The board shall notify the parties of the action taken by the board and the reasons for that action. A person who is adversely affected by a decision of the board pursuant to this section may appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

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Section 12. A new section of the Mining Safety Act is enacted to read:

"STANDARD OF EVALUATION OF VARIANCES--EFFECT OF VARIANCES GRANTED.--

A. A person affected by a rule adopted under the Mining Safety Act may petition the inspector for a variance.

B. A variance of a mandatory safety standard may be granted upon a determination that:

(1) an alternative method of achieving the result of the standard or rule exists that will at all times guarantee no less than the same measure of protection afforded by the standard or rule; or

(2) application of the standard or rule would diminish the safety of the affected miners.

C. All variances granted pursuant to this section shall have only future effect.

D. The inspector shall fully investigate any proposed variance with the requesting mine operator and the respective representative of miners, or a reasonable number of miners that will be affected by the proposed variance. The proposed variance shall be posted at the mine when submitted to the inspector to ensure that all miners have the opportunity to review and make comments to the inspector. Investigation shall begin within ninety days of receipt of the proposed petition, and the inspector shall make a final determination no longer than one hundred eighty days from the receipt of the proposed petition.

E. A person affected by the final decision of the inspector may appeal to the board within thirty days of the inspector's final decision. The appeal shall be in writing and sent to the board's chair. The board shall review the appeal within ninety days and may hold a hearing. The board shall make a final decision regarding the variance request.

F. A person who is adversely affected by a decision of the board pursuant to this section may appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

### **Chapter 301 Section 13 Laws 2007**

Section 13. Section 69-12-7 NMSA 1978 (being Laws 1933, Chapter 153, Section 34) is amended to read:

"69-12-7. ACCIDENTS--WRITTEN REPORT.--A report in writing shall be made to the state mine inspector of each mine accident. The report shall be made within one month of the date of the accident. Submitting a copy of the report required under the Federal Mine Safety and Health Act of 1977 to the inspector shall satisfy the requirements of Chapter 69 NMSA 1978."

### **Chapter 301 Section 14 Laws 2007**

Section 14. Section 69-14-1 NMSA 1978 (being Laws 1933, Chapter 153, Section 38, as amended) is amended to read:

"69-14-1. MINE FOREMEN--MINE EXAMINERS--CERTIFICATION BY STATE MINE INSPECTOR.--The state mine inspector shall certify, recertify or discipline persons to act as mine foremen and mine examiners. No mine operator shall employ any person as underground mine foreman, mine examiner or surface mine foreman unless that person has been certified by the state mine inspector for such position."

### **Chapter 301 Section 15 Laws 2007**

Section 15. Section 69-14-2 NMSA 1978 (being Laws 1933, Chapter 153, Section 40, as amended) is amended to read:

"69-14-2. METHODS OF CERTIFICATION--CERTIFICATES FROM OTHER STATES -- PERMITS -- EXAMINATIONS.--The state mine inspector shall certify persons for the positions of mine foreman and mine examiner and issue certificates accordingly as follows:

A. the state mine inspector may recognize the foreman's or mine examiner's certificate issued by any other state and issue certificates accordingly;

B. the state mine inspector shall hold written examinations, at times and places to be given out at least thirty days in advance, to all persons desiring to secure mine foreman certificates or mine examiner certificates; and

C. the state mine inspector shall require that any applicant for examination to the position of mine foreman or mine examiner shall submit a completed application at least thirty days prior to the examination date and shall meet the experience requirements of

this section. Every person desiring to secure a mine foreman's certificate and not already in such position or not holding such certificate from another state shall first serve as a mine examiner for six months and shall have at least four years' coal mine experience to participate in the foreman's examination. A person who holds a certificate for surface mine foreman who wishes to take the underground foreman test must have a minimum of four years' experience in underground mine workings. A person who holds an underground mine foreman certificate and who wishes to participate in the surface mine foreman examination must have at least two years' surface mine experience."

### **Chapter 301 Section 16 Laws 2007**

Section 16. Section 69-14-3 NMSA 1978 (being Laws 1933, Chapter 153, Section 41, as amended) is amended to read:

"69-14-3. QUALIFICATIONS FOR CERTAIN POSITIONS.--The mining safety board may, by rule, enact requirements, including requirements for applications, examinations and qualifications, for the certification of any mine personnel required to be qualified by state or federal law."

### **Chapter 301 Section 17 Laws 2007**

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

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

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

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

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

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

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

(3) has failed to maintain certification;

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

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

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

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

## **Chapter 301 Section 18 Laws 2007**

Section 18. REPEAL.--Sections 69-4-1, 69-4-3 through 69-4-10, 69-5-8, 69-5-11, 69-5-13, 69-5-15, 69-7-2 through 69-7-7, 69-8-5, 69-8-7 through 69-8-10, 69-8-14, 69-12-1, 69-12-2, 69-12-5, 69-12-6, 69-13-1 through 69-13-3, 69-14-5 through 69-14-18, 69-18-14, 69-31-16 and 69-35-18 through 69-35-20 NMSA 1978 (being Laws 1933, Chapter 153, Sections 1 and 3 through 10, Laws 1953, Chapter 82, Section 3, Laws 1933, Chapter 153, Sections 17, 19 and 21, Laws 1889, Chapter 103 Sections 2 through 5, Laws 1887, Chapter 34, Sections 1 and 2, Laws 1961, Chapter 136, Sections 5, 7 through 10 and 14, Laws 1933, Chapter 153, Sections 28, 29, 32, 33, 35 through 37 and 43 through 55, Laws 1882, Chapter 57, Section 9 and Laws 1933, Chapter 153, Sections 101, 245 and 303 through 305, as amended) are repealed.

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Senate Bill 819, as amended

Approved April 2, 2007

# **LAWS 2007, CHAPTER 302**

AN ACT

RELATING TO MINING; AMENDING, REPEALING AND ENACTING SECTIONS OF CHAPTER 69 NMSA 1978 TO PROVIDE FOR MINE SAFETY AND ENFORCEMENT OF MINE SAFETY LAWS AND RULES.

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

## **Chapter 302 Section 1 Laws 2007**

Section 1. Section 69-1-6 NMSA 1978 (being Laws 1979, Chapter 68, Section 3, as amended) is amended to read:

"69-1-6. STATE MINE INSPECTOR DUTIES--STATUS.--

A. The state mine inspector is assigned to the New Mexico institute of mining and technology.

B. The board of regents of the New Mexico institute of mining and technology and the mining safety board may recommend the names of qualified individuals to the governor for appointment as the state mine inspector.

C. In addition to those duties assigned to the state mine inspector by the board of regents of the New Mexico institute of mining and technology, by the mining safety board and by statute, the state mine inspector shall cooperate with the director of the mining and minerals division of the energy, minerals and natural resources department to assist the director in the performance of the director's duties."

## **Chapter 302 Section 2 Laws 2007**

Section 2. Section 69-5-7 NMSA 1978 (being Laws 1933, Chapter 153, Section 14, as amended) is amended to read:

"69-5-7. DUTIES--STATE MINE INSPECTOR--DIRECTOR OF MINING AND MINERALS.--

A. The state mine inspector shall:

(1) develop and maintain mine safety and health training programs;

(2) upon notification of any explosion or other catastrophic event at a mine in which the lives of mine workers are jeopardized or in which fatalities have occurred,

allocate available resources within a twenty-four-hour time period to assist the mine operator in the rescue of persons and the subsequent accident investigation;

(3) upon request from any operator, provide compliance assistance to include on-site audits to any mine or mine operator within the state to aid in the health and safety of mine workers and mine operators;

(4) if a mine is found to be unsafe during an inspection, give written notice that the mine is unsafe to the owner, operator or manager of the mine with an explanation for the notice;

(5) support and maintain a uniform system of mine bell signals and furnish a copy of the signal system to each underground mine operator within the state. Automated hoists shall be exempt from compliance with the bell signal requirements;

(6) implement a program of certifying mine personnel as provided by law;  
and

(7) make a report to the governor on or before June 1 of each year, which report covers the preceding calendar year and contains a review of the official acts of the inspector.

B. The director of the mining and minerals division of the energy, minerals and natural resources department shall:

(1) cooperate with the state mine inspector to assist the state mine inspector in the performance of the state mine inspector's duties, including providing the state mine inspector with mine registration and other information collected by the department;

(2) provide an annual resources report to the governor that shall include statistics of the number of persons employed in mining, the production and value thereof; and

(3) have right of entry to the mines as may be required to fulfill the director's statutory duties."

### **Chapter 302 Section 3 Laws 2007**

Section 3. Section 69-5-9 NMSA 1978 (being Laws 1933, Chapter 153, Section 15) is amended to read:

"69-5-9. INSPECTIONS--RIGHT OF ENTRY--OPERATOR'S REPRESENTATIVE.--The state mine inspector is given authority at all reasonable times to:

A. enter and inspect any mine in the state in such manner as not to impede or obstruct the workings of the mine; and

B. require that the mine owner, operator or manager at all times furnish means necessary for such entry, inspection, examination and inquiry."

### **Chapter 302 Section 4 Laws 2007**

Section 4. Section 69-5-10 NMSA 1978 (being Laws 1933, Chapter 153, Section 16) is amended to read:

"69-5-10. COMPLIANCE ASSISTANCE VISIT RECORD--OPERATOR'S COPY.-  
-The state mine inspector shall make an entry of record in the state mine inspector's office of each compliance assistance visit and shall furnish the operator a copy thereof."

### **Chapter 302 Section 5 Laws 2007**

Section 5. Section 69-5-14 NMSA 1978 (being Laws 1933, Chapter 153, Section 20, as amended) is amended to read:

"69-5-14. ORDERING DANGEROUS CONDITIONS IN MINES REMOVED OR REMOVAL OF WORKERS FROM DANGER ZONES.--When any mine or portion of a mine or machine, device, apparatus or equipment pertaining to a mine, in the judgment of the state mine inspector, is in so dangerous a condition from any cause or creates such a hazard as to jeopardize life or health, the state mine inspector shall at once direct the management or operator of the mine to remove the dangerous condition or safeguard the equipment. Should the state mine inspector find during inspection of the mine a dangerous condition existing in the mine that might cause loss of life or serious personal injury to the employees, the state mine inspector has the right to require the operator to immediately withdraw all persons from the dangerous places or from the entire mine. In the event the operator fails or refuses to immediately comply with the requirements or instructions of the state mine inspector, the state mine inspector shall issue an order closing all or any portion of the mine to regular operations and notify a representative of the miners and the mine safety and health administration immediately."

### **Chapter 302 Section 6 Laws 2007**

Section 6. Section 69-5-17 NMSA 1978 (being Laws 1933, Chapter 153, Section 23, as amended by Laws 2006, Chapter 102, Section 2 and by Laws 2006, Chapter 106, Section 2) is amended to read:

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

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

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

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

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

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

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

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(5) an unplanned ignition or explosion of gas or dust;

(6) an unplanned mine fire in an underground mine that is not extinguished within ten minutes of discovery and an unplanned mine fire within a surface mine or surface area of an underground mine that is not extinguished within thirty minutes;

(7) an unplanned ignition or explosion of a blasting agent or an explosive;

(8) an unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in use or an unplanned roof or rib fall in active workings that impairs ventilation or impedes passage;

(9) a coal or rock outburst that causes withdrawal of miners or that disrupts regular mining activity for more than one hour;

(10) an unstable condition at an impoundment, refuse pile or culm bank that requires emergency action in order to prevent failure or that causes individuals to evacuate an area or failure of an impoundment, refuse pile or culm bank;

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(12) an event at a mine that causes death or bodily injury to an individual not at the mine at the time the event occurs;

B. "employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee or to a place of employment;

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(1) an area of land from which minerals are extracted in nonliquid form or, if in liquid form, are extracted with workers underground;

(2) private ways and roads appurtenant to an area described in Paragraph (1) of this subsection; and

(3) lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools or other property, including impoundments, retention dams and tailings ponds, on the surface or underground, used in, to be used in or resulting from, the work of extracting such minerals from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of such minerals, or the work of preparing coal or other minerals, and includes custom coal preparation facilities;

E. "operator", pursuant to 30 C.F.R. 50.2, means:

(1) any owner, lessee or other person that operates, controls or supervises a coal mine; or

(2) the person, partnership, association or corporation, or subsidiary of a corporation, operating a metal or nonmetal mine and owning the right to do so, including any agent thereof charged with responsibility for the operation of such mine;

F. "person" means an individual, partnership, association, corporation, business trust, receiver, trustee, legal representative or successor to any of the foregoing;

G. "place of employment" means any place in or about which the employee is suffered or permitted to work;

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B. Voting members of the board shall receive compensation pursuant to the Per Diem and Mileage Act. The inspector is authorized and directed to provide the board with such clerical, technical, legal and other assistance as shall be necessary to permit the board to perform its duties as provided in the Mining Safety Act."

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B. Notice of the subject, time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed rule may be obtained shall be:

(1) published at least thirty days prior to the hearing date in a newspaper of general circulation in the state and in the New Mexico register, if published; and

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C. The board shall allow all interested persons reasonable opportunity to submit data, views or arguments orally or in writing. The board may designate a hearing officer to take evidence in the hearing. Any person that provides comments shall be given written notice of the action of the board.

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C. The board shall review the record compiled before the inspector and shall allow any party to submit arguments. Prior to the date set for review, if a party shows to the satisfaction of the board that there is good reason to allow additional evidence on an issue being challenged, the board shall allow additional evidence to be taken. Based on the review of the evidence and the arguments of the parties, the board shall sustain, modify or reverse the action of the inspector.

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B. A variance of a mandatory safety standard may be granted upon a determination that:

(1) an alternative method of achieving the result of the standard or rule exists that will at all times guarantee no less than the same measure of protection afforded by the standard or rule; or

(2) application of the standard or rule would diminish the safety of the affected miners.

C. All variances granted pursuant to this section shall have only future effect.

D. The inspector shall fully investigate any proposed variance with the requesting mine operator and the respective representative of miners, or a reasonable number of miners that will be affected by the proposed variance. The proposed variance shall be posted at the mine when submitted to the inspector to ensure that all miners have the opportunity to review and make comments to the inspector. Investigation shall begin within ninety days of receipt of the proposed petition, and the inspector shall make a final determination no longer than one hundred eighty days from the receipt of the proposed petition.

E. A person affected by the final decision of the inspector may appeal to the board within thirty days of the inspector's final decision. The appeal shall be in writing and sent to the board's chair. The board shall review the appeal within ninety days and may hold a hearing. The board shall make a final decision regarding the variance request.

F. A person who is adversely affected by a decision of the board pursuant to this section may appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

### **Chapter 302 Section 13 Laws 2007**

Section 13. Section 69-12-7 NMSA 1978 (being Laws 1933, Chapter 153, Section 34) is amended to read:

"69-12-7. ACCIDENTS--WRITTEN REPORT.--A report in writing shall be made to the state mine inspector of each mine accident. The report shall be made within one month of the date of the accident. Submitting a copy of the report required under the Federal Mine Safety and Health Act of 1977 to the inspector shall satisfy the requirements of Chapter 69 NMSA 1978."

### **Chapter 302 Section 14 Laws 2007**

Section 14. Section 69-14-1 NMSA 1978 (being Laws 1933, Chapter 153, Section 38, as amended) is amended to read:

"69-14-1. MINE FOREMEN--MINE EXAMINERS--CERTIFICATION BY STATE MINE INSPECTOR.--The state mine inspector shall certify, recertify or discipline persons to act as mine foremen and mine examiners. No mine operator shall employ any person as underground mine foreman, mine examiner or surface mine foreman unless that person has been certified by the state mine inspector for such position."

### **Chapter 302 Section 15 Laws 2007**

Section 15. Section 69-14-2 NMSA 1978 (being Laws 1933, Chapter 153, Section 40, as amended) is amended to read:

"69-14-2. METHODS OF CERTIFICATION--CERTIFICATES FROM OTHER STATES--PERMITS--EXAMINATIONS.--The state mine inspector shall certify persons for the positions of mine foreman and mine examiner and issue certificates accordingly as follows:

A. the state mine inspector may recognize the foreman's or mine examiner's certificate issued by any other state and issue certificates accordingly;

B. the state mine inspector shall hold written examinations, at times and places to be given out at least thirty days in advance, to all persons desiring to secure mine foreman certificates or mine examiner certificates; and

C. the state mine inspector shall require that any applicant for examination to the position of mine foreman or mine examiner shall submit a completed application at least thirty days prior to the examination date and shall meet the experience requirements of this section. Every person desiring to secure a mine foreman's certificate and not already in such position or not holding such certificate from another state shall first serve as a mine examiner for six months and shall have at least four years' coal mine experience to participate in the foreman's examination. A person who holds a certificate for surface mine foreman who wishes to take the underground foreman test must have a minimum of four years' experience in underground mine workings. A person who holds an underground mine foreman certificate and who wishes to participate in the surface mine foreman examination must have at least two years' surface mine experience."

## **Chapter 302 Section 16 Laws 2007**

Section 16. Section 69-14-3 NMSA 1978 (being Laws 1933, Chapter 153, Section 41, as amended) is amended to read:

"69-14-3. QUALIFICATIONS FOR CERTAIN POSITIONS.--The mining safety board may, by rule, enact requirements, including requirements for applications, examinations and qualifications, for the certification of any mine personnel required to be qualified by state or federal law."

## **Chapter 302 Section 17 Laws 2007**

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

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

A. Certification for mine personnel shall be issued for a period of five years. All mine personnel certified by the state mine inspector prior to the effective date of this 2007 act shall have their certification period extended five years. Each certified person

has the responsibility to notify the state mine inspector of any change in address or change in mine employment within thirty days of the change. Failure to provide current information may result in suspension of certification.

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

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

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

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

(3) has failed to maintain certification;

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

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

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

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

## **Chapter 302 Section 18 Laws 2007**

Section 18. REPEAL.--Sections 69-4-1, 69-4-3 through 69-4-10, 69-5-8, 69-5-11, 69-5-13, 69-5-15, 69-7-2 through 69-7-7, 69-8-5, 69-8-7 through 69-8-10, 69-8-14, 69-

12-1, 69-12-2, 69-12-5, 69-12-6, 69-13-1 through 69-13-3, 69-14-5 through 69-14-18, 69-18-14, 69-31-16 and 69-35-18 through 69-35-20 NMSA 1978 (being Laws 1933, Chapter 153, Sections 1 and 3 through 10, Laws 1953, Chapter 82, Section 3, Laws 1933, Chapter 153, Sections 17, 19 and 21, Laws 1889, Chapter 103 Sections 2 through 5, Laws 1887, Chapter 34, Sections 1 and 2, Laws 1961, Chapter 136, Sections 5, 7 through 10 and 14, Laws 1933, Chapter 153, Sections 28, 29, 32, 33, 35 through 37 and 43 through 55, Laws 1882, Chapter 57, Section 9 and Laws 1933, Chapter 153, Sections 101, 245 and 303 through 305, as amended) are repealed.

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House Bill 682, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 303**

### **AN ACT**

RELATING TO SCHOOL PERSONNEL; ALLOWING COUNSELORS TO APPLY FOR LEVEL THREE-B ADMINISTRATIVE LICENSES.

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

### **Chapter 303 Section 1 Laws 2007**

Section 1. Section 22-10A-11 NMSA 1978 (being Laws 2003, Chapter 153, Section 42, as amended by Laws 2005, Chapter 315, Section 8 and by Laws 2005, Chapter 316, Section 5) is amended to read:

"22-10A-11. LEVEL THREE LICENSURE--TRACKS FOR TEACHERS, COUNSELORS AND SCHOOL ADMINISTRATORS.--

A. A level three-A license is a nine-year license granted to a teacher who meets the qualifications for that level and who annually demonstrates instructional leader competencies. If a level three-A teacher does not demonstrate essential competency in a given school year, the school district shall provide the teacher with additional professional development and peer intervention during the following school year. If by the end of that school year the teacher fails to demonstrate essential competency, a school district may choose not to contract with the teacher to teach in the classroom.

B. The department shall grant a level three-A license to an applicant who has been a level two teacher for at least three years and holds a post-baccalaureate degree or national board for professional teaching standards certification; demonstrates instructional leader competence as required by the department and verified by the local

superintendent through the highly objective uniform statewide standard of evaluation; and meets other qualifications for the license.

C. With the adoption by the department of a highly objective uniform statewide standard of evaluation for level three-A teachers, the minimum salary for a level three-A teacher for a standard nine and one-half month contract shall be as follows:

- (1) for the 2003-2004 school year, thirty thousand dollars (\$30,000);
- (2) for the 2004-2005 school year, thirty-five thousand dollars (\$35,000);
- (3) for the 2005-2006 school year, forty thousand dollars (\$40,000);
- (4) for the 2006-2007 school year, forty-five thousand dollars (\$45,000);

and

- (5) for the 2007-2008 school year, fifty thousand dollars (\$50,000).

D. A level three-B license is a nine-year license granted to a school administrator who meets the qualifications for that level. Licenses may be renewed upon satisfactory annual demonstration of instructional leader and administrative competency.

E. The department shall grant a level three-B license to an applicant who:

- (1) has been a level three-A teacher for at least one year or who holds a current level 2 teacher's license and who, for at least four years, has held the highest-ranked counselor license as provided in Chapter 22, Article 10A NMSA 1978 and rules promulgated by the department;

- (2) has satisfactorily completed department-approved courses in administration and a department-approved administration apprenticeship program; and

- (3) demonstrates instructional leader competence required by the department and verified by the local superintendent through the highly objective uniform statewide standard of evaluation.

F. Beginning with the 2007-2008 school year, the standard contract and minimum annual salary for a level three-B school principal shall be based on the size of the school in which the school principal is employed, as follows:

- (1) for school principals of schools with two hundred or fewer students, a minimum salary of fifty-eight thousand dollars (\$58,000) for a standard ten-month contract;

(2) for school principals of schools with two hundred one to four hundred students, a minimum salary of sixty thousand dollars (\$60,000) for a standard ten-month contract;

(3) for school principals of schools with four hundred one to six hundred students, a minimum salary of sixty-two thousand dollars (\$62,000) for a standard ten-month contract;

(4) for school principals of schools with six hundred one to eight hundred students, a minimum salary of sixty-four thousand dollars (\$64,000) for a standard ten-month contract;

(5) for school principals of schools with eight hundred one to one thousand students, a minimum salary of sixty-six thousand dollars (\$66,000) for a standard ten-month contract; and

(6) for school principals of schools with more than one thousand students, a minimum salary of sixty-eight thousand dollars (\$68,000) for a standard ten-month contract."

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House Bill 1090, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 304**

### **AN ACT**

RELATING TO SCHOOL PERSONNEL; CHANGING THE CALCULATION FOR MINIMUM SALARIES OF SCHOOL PRINCIPALS AND ASSISTANT SCHOOL PRINCIPALS.

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

### **Chapter 304 Section 1 Laws 2007**

Section 1. Section 22-10A-2 NMSA 1978 (being Laws 1975, Chapter 306, Section 2, as amended) is amended to read:

"22-10A-2. DEFINITIONS.--As used in the School Personnel Act:

A. "discharge" means the act of severing the employment relationship with a certified school employee prior to the expiration of the current employment contract;

B. "responsibility factor" means a value of 1.20 for an elementary school principal, 1.40 for a middle school or junior high school principal, 1.60 for a high school principal, 1.10 for an assistant elementary school principal, 1.15 for an assistant middle school or assistant junior high school principal and 1.25 for an assistant high school principal;

C. "state agency" means any state institution or state agency providing an educational program requiring the employment of certified school instructors;

D. "sabbatical leave" means leave of absence with pay as set by the local school board or governing authority of a state agency during all or part of a regular school term for purposes of study or travel related to the staff member's duties and of direct benefit to the instructional program;

E. "terminate" means, in the case of a certified school employee, the act of not reemploying an employee for the ensuing school year and, in the case of a noncertified school employee, the act of severing the employment relationship with the employee;

F. "working day" means every calendar day, excluding Saturday, Sunday or legal holiday; and

G. "just cause" means a reason that is rationally related to an employee's competence or turpitude or the proper performance of the employee's duties and that is not in violation of the employee's civil or constitutional rights."

## **Chapter 304 Section 2 Laws 2007**

Section 2. Section 22-10A-11 NMSA 1978 (being Laws 2003, Chapter 153, Section 42, as amended by Laws 2005, Chapter 315, Section 8 and by Laws 2005, Chapter 316, Section 5) is amended to read:

"22-10A-11. LEVEL THREE LICENSURE--TRACKS FOR TEACHERS AND SCHOOL ADMINISTRATORS.--

A. A level three-A license is a nine-year license granted to a teacher who meets the qualifications for that level and who annually demonstrates instructional leader competencies. If a level three-A teacher does not demonstrate essential competency in a given school year, the school district shall provide the teacher with additional professional development and peer intervention during the following school year. If by the end of that school year the teacher fails to demonstrate essential competency, a school district may choose not to contract with the teacher to teach in the classroom.

B. The department shall grant a level three-A license to an applicant who has been a level two teacher for at least three years and holds a post-baccalaureate degree or national board for professional teaching standards certification; demonstrates instructional leader competence as required by the department and verified by the local

superintendent through the highly objective uniform statewide standard of evaluation; and meets other qualifications for the license.

C. With the adoption by the department of a highly objective uniform statewide standard of evaluation for level three-A teachers, the minimum salary for a level three-A teacher for a standard nine and one-half month contract shall be as follows:

- (1) for the 2003-2004 school year, thirty thousand dollars (\$30,000);
- (2) for the 2004-2005 school year, thirty-five thousand dollars (\$35,000);
- (3) for the 2005-2006 school year, forty thousand dollars (\$40,000);
- (4) for the 2006-2007 school year, forty-five thousand dollars (\$45,000);

and

- (5) for the 2007-2008 school year, fifty thousand dollars (\$50,000).

D. A level three-B license is a nine-year license granted to a school administrator who meets the qualifications for that level. Licenses may be renewed upon satisfactory annual demonstration of instructional leader and administrative competency.

E. The department shall grant a level three-B license to an applicant who has been a level three-A teacher for at least one year, has satisfactorily completed department-

approved courses in administration and a department-approved administration apprenticeship program and demonstrates instructional leader competence required by the department and verified by the local superintendent through the highly objective uniform statewide standard of evaluation.

F. Beginning with the 2007-2008 school year, the minimum annual salary for a level three-B school principal or assistant school principal shall be fifty thousand dollars (\$50,000) multiplied by the applicable responsibility factor.

G. By the beginning of the 2008-2009 school year, the department shall adopt a highly objective uniform statewide standard of evaluation, which includes data sources linked to student achievement and educational plan for student success progress, for level three-B school principals and assistant school principals and rules for the implementation of that evaluation system linked to the level of responsibility at each school level."

Approved April 2, 2007

## **LAWS 2007, CHAPTER 305**

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING THAT FINANCIAL LITERACY BE OFFERED AS AN ELECTIVE; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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

### **Chapter 305 Section 1 Laws 2007**

Section 1. Section 22-13-1.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 5, as amended by Laws 2005, Chapter 314, Section 1 and by Laws 2005, Chapter 315, Section 10) 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 and is reasonably informed about:

(1) curricular and course options;

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

and

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

E. The secretary shall:

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

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

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

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

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

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

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

(3) two units in science, one of which shall have a laboratory component; provided, however, that with students entering the ninth grade beginning in the 2005-2006 school year, three units in science shall be required, one of which shall have a laboratory component;

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

(5) one unit in physical education;

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

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

(8) nine elective units and seven and one-half elective units for students entering the ninth grade in the 2005-2006 school year that meet department content

and performance standards. Student service learning shall be offered as an elective. Financial literacy shall be offered as an elective.

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

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

I. 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.

J. As used in this section:

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

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

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

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

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House Bill 1205

Approved April 2, 2007

# LAWS 2007, CHAPTER 306

## AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING SECTION 22-2C-4 NMSA 1978 (BEING LAWS 2003, CHAPTER 153, SECTION 13, AS AMENDED) TO REQUIRE THE PUBLIC EDUCATION DEPARTMENT TO PROVIDE TO SCHOOL DISTRICTS THEIR RESPECTIVE STUDENTS' SCORES ON ALL REQUIRED STANDARDS-BASED ACADEMIC PERFORMANCE TESTS PRIOR TO THE COMMENCEMENT OF THE SCHOOL YEAR.

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

### Chapter 306 Section 1 Laws 2007

Section 1. Section 22-2C-4 NMSA 1978 (being Laws 2003, Chapter 153, Section 13, as amended) is amended to read:

"22-2C-4. STATEWIDE ASSESSMENT AND ACCOUNTABILITY SYSTEM -- INDICATORS -- REQUIRED ASSESSMENTS -- ALTERNATIVE ASSESSMENTS -- LIMITS ON ALTERNATIVES TO ENGLISH LANGUAGE READING ASSESSMENTS.--

A. The department shall establish a statewide assessment and accountability system that is aligned with the state academic content and performance standards and that measures adequate yearly progress for each public school and school district. Adequate yearly progress shall be determined primarily by student academic achievement, as demonstrated by statewide standards-based assessments; however, the department may include other indicators of adequate yearly progress, including graduation rates for high schools and attendance for elementary and middle schools.

B. The academic assessment program for adequate yearly progress shall test student achievement as follows:

(1) for grades three through eight and for grade eleven, standards-based assessments in mathematics, reading and language arts and social studies;

(2) for grades three through eight, a standards-based writing assessment with the writing assessment scoring criteria applied to the extended response writing portions of the language arts standards-based assessments; and

(3) for one of grades three through five and six through eight and for grade eleven, standards-based assessments in science by the 2007-2008 school year.

C. The department shall involve appropriate licensed school employees in the development of the standards-based assessments.

D. Before August 5 of each year, the department shall provide student scores on all standards-based assessments taken during the prior school year and required in Subsection B of this section to students' respective school districts in order to make test score data available to assist school district staff with appropriate grade-level and other placement for the current school year.

E. All students shall participate in the academic assessment program. The department shall adopt standards for reasonable accommodations in academic testing for students with disabilities and limited English proficiency, including when and how accommodations may be applied. The legislative education study committee shall review the standards prior to adoption by the department.

F. Students who have been determined to be limited English proficient may be allowed to take the standards-based assessment in their primary language. A student who has attended school for three consecutive years in the United States shall participate in the English language reading assessment unless granted a waiver by the department based on criteria established by the department. An English language reading assessment waiver may be granted only for a maximum of two additional years and only on a case-by-case basis."

## **Chapter 306 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2008.

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Senate Bill 1004, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 307**

AN ACT

RELATING TO EDUCATION; PROVIDING FOR HIGH SCHOOL REDESIGN; PROVIDING FOR COLLEGE AND WORKPLACE READINESS; PROVIDING NEW ASSESSMENTS; RAISING THE AGE AT WHICH A STUDENT MAY DROP OUT OF SCHOOL; ELIMINATING CERTIFICATES OF EMPLOYMENT; ELIMINATING PART-TIME SCHOOLS; CHANGING HIGH SCHOOL GRADUATION REQUIREMENTS; PROVIDING FOR A MIDDLE AND HIGH SCHOOL LITERACY INITIATIVE; INCREASING REQUIRED MINIMUM INSTRUCTIONAL AREAS IN FIRST THROUGH THIRD AND EIGHTH GRADES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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

## Chapter 307 Section 1 Laws 2007

Section 1. Section 22-1-1.2 NMSA 1978 (being Laws 2003, Chapter 153, Section 2) is amended to read:

### "22-1-1.2. LEGISLATIVE FINDINGS AND PURPOSE.--

A. The legislature finds that no education system can be sufficient for the education of all children unless it is founded on the sound principle that every child can learn and succeed and that the system must meet the needs of all children by recognizing that student success for every child is the fundamental goal.

B. The legislature finds further that the key to student success in New Mexico is to have a multicultural education system that:

(1) attracts and retains quality and diverse teachers to teach New Mexico's multicultural student population;

(2) holds teachers, students, schools, school districts and the state accountable;

(3) integrates the cultural strengths of its diverse student population into the curriculum with high expectations for all students;

(4) recognizes that cultural diversity in the state presents special challenges for policymakers, administrators, teachers and students;

(5) provides students with a rigorous and relevant high school curriculum that prepares them to succeed in college and the workplace; and

(6) elevates the importance of public education in the state by clarifying the governance structure at different levels.

C. The legislature finds further that the teacher shortage in this country has affected the ability of New Mexico to compete for the best teachers and that, unless the state and school districts find ways to mentor beginning teachers, intervene with teachers while they still show promise, improve the job satisfaction of quality teachers and elevate the teaching profession by shifting to a professional educator licensing and salary system, public schools will be unable to recruit and retain the highest quality teachers in the teaching profession in New Mexico.

D. The legislature finds further that a well-designed, well-implemented and well-maintained assessment and accountability system is the linchpin of public school reform and must ensure that:

(1) students who do not meet or exceed expectations will be given individual attention and assistance through extended learning programs and individualized tutoring;

(2) students have accurate, useful information about their options and the adequacy of their preparation for post-secondary education, training or employment in order to set and achieve high goals;

(3) teachers who do not meet performance standards must improve their skills or they will not continue to be employed as teachers;

(4) public schools make adequate yearly progress toward educational excellence; and

(5) school districts and the state are prepared to actively intervene and improve failing public schools.

E. The legislature finds further that improving children's reading and writing abilities and literacy throughout their years in school must remain a priority of the state.

F. The legislature finds further that the public school governance structure needs to change to provide accountability from the bottom up instead of from the top down. Each school principal, with the help of school councils made up of parents and teachers, must be the instructional leader in the public school, motivating and holding accountable both teachers and students. Each local superintendent must function as the school district's chief executive officer and have responsibility for the day-to-day operations of the school district, including personnel and student disciplinary decisions.

G. It is the purpose of the 2003 public school reform legislation as augmented by this 2007 legislation to provide the framework to implement the legislative findings to ensure student success in New Mexico."

## **Chapter 307 Section 2 Laws 2007**

Section 2. Section 22-2C-1 NMSA 1978 (being Laws 2003, Chapter 153, Section 10) is amended to read:

"22-2C-1. SHORT TITLE.--Chapter 22, Article 2C NMSA 1978 may be cited as the "Assessment and Accountability Act"."

## **Chapter 307 Section 3 Laws 2007**

Section 3. Section 22-2C-4 NMSA 1978 (being Laws 2003, Chapter 153, Section 13, as amended) is amended to read:

"22-2C-4. STATEWIDE ASSESSMENT AND ACCOUNTABILITY SYSTEM -- INDICATORS -- REQUIRED ASSESSMENTS -- ALTERNATIVE ASSESSMENTS -- LIMITS ON ALTERNATIVES TO ENGLISH LANGUAGE READING ASSESSMENTS.--

A. The department shall establish a statewide assessment and accountability system that is aligned with the state academic content and performance standards and that measures adequate yearly progress for each public school and school district. Adequate yearly progress shall be determined primarily by student academic achievement, as demonstrated by statewide standards-based assessments; however, the department may include other indicators of adequate yearly progress, including graduation rates for high schools and attendance for elementary and middle schools.

B. The academic assessment program for adequate yearly progress shall test student achievement as follows:

(1) for grades three through eight and for grade eleven, standards-based assessments in mathematics, reading and language arts and social studies;

(2) for grades three through eight, a standards-based writing assessment with the writing assessment scoring criteria applied to the extended response writing portions of the language arts standards-based assessments; and

(3) for one of grades three through five and six through eight and for grade eleven, standards-based assessments in science by the 2007-2008 school year.

C. The department shall involve appropriate licensed school employees in the development of the standards-based assessments.

D. All students shall participate in the academic assessment program. The department shall adopt standards for reasonable accommodations in standards-based assessments for students with disabilities and limited English proficiency, including when and how accommodations may be applied. The legislative education study committee shall review the standards prior to adoption by the department.

E. Students who have been determined to be limited English proficient may be allowed to take the standards-based assessment in their primary language. A student who has attended school for three consecutive years in the United States shall participate in the English language reading assessment unless granted a waiver by the department based on criteria established by the department. An English language reading assessment waiver may be granted only for a maximum of two additional years and only on a case-by-case basis."

## **Chapter 307 Section 4 Laws 2007**

Section 4. A new section of Chapter 22, Article 2C NMSA 1978 is enacted to read:

## "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 the following components:

(1) a high school readiness assessment in English, reading, mathematics and science in the fall semester of grade nine;

(2) a college readiness assessment in English, reading and mathematics in grade ten; and

(3) a workplace readiness assessment to assess applied skills in reading, mathematics and locating information in grade eleven.

B. All students at the specified grade level shall participate in the readiness assessment system at no cost to the student.

C. The department shall ensure that results of performance on readiness assessments are reported to students, parents and public schools no later than four weeks following the date on which the assessments are administered, in a form that is easily understandable and useful in the next-step planning process. 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 or selecting the high school or college readiness assessments, the department may adopt commercially available standards-based assessments that meet the requirements of this section. The department shall involve appropriate licensed school employees in the development or selection of readiness assessments."

### **Chapter 307 Section 5 Laws 2007**

Section 5. Section 22-8-43 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 14, Section 2, as amended) is amended to read:

"22-8-43. PUBLIC SCHOOL READING PROFICIENCY FUND--CREATED.--The "public school reading proficiency fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants and donations. The fund shall be administered by the department, and money in the fund is appropriated to the department to distribute awards to public middle, junior and senior high schools that implement innovative, scientifically based reading programs. The department shall develop procedures and rules for the application and award of money from the fund, including criteria upon which to evaluate innovative, scientifically based reading programs. Public schools receiving funds shall show evidence that they are using quality, scientifically based reading research to improve reading proficiency and shall develop individualized reading plans for students who fail to meet grade level reading proficiency standards. Disbursements of the fund shall be made by warrant of the department of finance and administration pursuant to vouchers signed by the secretary or the secretary's authorized representative. Any unexpended or unencumbered balance remaining in the fund at the end of any fiscal year shall not revert but shall remain to the credit of the fund."

### **Chapter 307 Section 6 Laws 2007**

Section 6. Section 22-12-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 170, as amended) is amended to read:

"22-12-2. COMPULSORY SCHOOL ATTENDANCE--RESPONSIBILITY.--

A. Except as otherwise provided, a school-age person shall attend public school, private school, home school or a state institution until the school-age person is at least eighteen years of age unless that person has graduated from high school or received a general educational development certificate. A parent may give written, signed permission for the school-age person to leave school in case of hardship approved by the local superintendent.

B. A school-age person subject to the provisions of the Compulsory School Attendance Law shall attend school for at least the length of time of the school year that is established in the school district in which the person is a resident or the state-chartered charter school in which the person is enrolled and the school district or state-chartered charter school shall not excuse a student from attending school except as provided in that law or for parent-authorized medical reasons.

C. Any parent of a school-age person subject to the provisions of the Compulsory School Attendance Law is responsible for the school attendance of that person.

D. Each local school board and each governing body of a charter school or private school shall enforce the provisions of the Compulsory School Attendance Law for students enrolled in their respective schools."

### **Chapter 307 Section 7 Laws 2007**

Section 7. 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 on-line 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.

G. In ninth through twelfth grades, instruction that meets academic content and performance standards shall be provided in health education."

## **Chapter 307 Section 8 Laws 2007**

Section 8. Section 22-13-1.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 5, as amended by Laws 2005, Chapter 314, Section 1 and by Laws 2005, Chapter 315, Section 10) 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 or remediation programs that the college and workplace readiness assessments indicate to be appropriate;

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

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

E. The secretary shall:

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

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

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

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

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

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

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

(3) two units in science, one of which shall have a laboratory component; provided, however, that with students entering the ninth grade beginning in the 2005-2006 school year, three units in science shall be required, one of which shall have a laboratory component;

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

(5) one unit in physical education;

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

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

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

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

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

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

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

(2) four units in mathematics, of which one shall be the equivalent to or higher than the level of algebra 2, unless the parent submitted written, signed permission for the student to complete a lesser mathematics unit;

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

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

(5) one unit in physical education;

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

(7) seven and one-half elective units that meet department content and performance standards. Student service learning shall be offered as an elective.

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

K. Until July 1, 2010, a student who has not passed a state graduation examination in the subject areas of reading, English, mathematics, writing, science and social science shall not receive a high school diploma. The state graduation examination on social science shall include a section on the constitution of the United States and the constitution of New Mexico. If a student exits from the school system at the end of grade twelve without having passed a state graduation examination, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student exits from the school system the student takes and passes the state graduation examination, the student may receive a high school diploma.

L. Beginning with the 2010-2011 school year, a student shall not receive a New Mexico diploma of excellence if the student has not demonstrated competence in the subject areas of mathematics, reading and language arts, writing, social studies and science, including a section on the constitution of the United States and the constitution of New Mexico, based on a standards-based assessment or assessments or a portfolio of standards-based indicators established by the department by rule no later than January 15, 2008. If a student exits from the school system at the end of grade twelve without having satisfied the requirements of this subsection, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student exits from the school system the student satisfies the requirement of this subsection, the student may receive a New Mexico diploma of excellence.

M. As used in this section:

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

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

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

- (a) advanced placement or honors courses;
- (b) dual-credit courses offered in cooperation with an institution of higher education; and
- (c) distance learning courses.

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

## **Chapter 307 Section 9 Laws 2007**

Section 9. Section 22-13-1.4 NMSA 1978 (being Laws 2005, Chapter 78, Section 1) is amended to read:

"22-13-1.4. HONORS OR SIMILAR CLASSES IN MATHEMATICS AND LANGUAGE ARTS--DUAL CREDIT COURSES--LANGUAGES OTHER THAN ENGLISH.--

A. Beginning with the 2006-2007 school year, each school district shall offer at least one honors or similar academically rigorous class each in mathematics and language arts in each high school.

B. Beginning in the 2008-2009 school year, each school district shall also offer a program of courses for dual-credit, in cooperation with an institution of higher education, and a program of distance learning courses.

C. Beginning with the 2009-2010 school year, each school district shall offer at least two years of a language other than English in each high school."

## **Chapter 307 Section 10 Laws 2007**

Section 10. A new section of the Public School Code is enacted to read:

"MIDDLE AND HIGH SCHOOL LITERACY INITIATIVE.--

A. School districts and charter schools may create comprehensive, coordinated middle and high school literacy initiatives to provide scientifically based literacy programs to improve the reading and writing proficiency of students in grades six through twelve.

B. The design of a middle and high school literacy initiative shall be based upon scientific research that shows that using the methods and materials proposed is effective in improving reading proficiency beyond the primary grades and shall include, at a minimum:

- (1) instruction in nonfiction writing;
  - (2) ongoing teacher and school administrator professional development equal to that which was validated in the supporting research;
  - (3) use of student assessment data to guide and individualize instruction;
- and
- (4) a rigorous and thorough evaluation component.

C. A middle and high school literacy initiative shall also incorporate some or all of the following elements:

- (1) direct, explicit comprehension instruction;
- (2) teacher teams, including language arts and content area instructors who implement mutually reinforcing practices;
- (3) strategies to encourage motivation and self-directed learning;
- (4) text-based collaborative learning by groups of students;
- (5) strategic tutoring;
- (6) diverse texts;
- (7) a technology component; and
- (8) extended time for literacy.

D. School districts and charter schools that meet department eligibility requirements may apply to the department for awards from the public school reading proficiency fund for support for their middle and high school literacy initiatives. Applications shall be in a form prescribed by the department."

### **Chapter 307 Section 11 Laws 2007**

Section 11. REPEAL.--Sections 22-12-6, 22-13-9 and 22-13-10 NMSA 1978 (being laws 1967, Chapter 16, Sections 174, 183 and 184) are repealed.

### **Chapter 307 Section 12 Laws 2007**

Section 12. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 584, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 308**

AN ACT

RELATING TO EDUCATION; PROVIDING FOR HIGH SCHOOL REDESIGN; PROVIDING FOR COLLEGE AND WORKPLACE READINESS; PROVIDING NEW ASSESSMENTS; RAISING THE AGE AT WHICH A STUDENT MAY DROP OUT OF SCHOOL; ELIMINATING CERTIFICATES OF EMPLOYMENT; ELIMINATING PART-TIME SCHOOLS; CHANGING HIGH SCHOOL GRADUATION REQUIREMENTS; PROVIDING FOR A MIDDLE AND HIGH SCHOOL LITERACY INITIATIVE; INCREASING REQUIRED MINIMUM INSTRUCTIONAL AREAS IN FIRST THROUGH THIRD AND EIGHTH GRADES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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

### **Chapter 308 Section 1 Laws 2007**

Section 1. Section 22-1-1.2 NMSA 1978 (being Laws 2003, Chapter 153, Section 2) is amended to read:

"22-1-1.2. LEGISLATIVE FINDINGS AND PURPOSE.--

A. The legislature finds that no education system can be sufficient for the education of all children unless it is founded on the sound principle that every child can learn and succeed and that the system must meet the needs of all children by recognizing that student success for every child is the fundamental goal.

B. The legislature finds further that the key to student success in New Mexico is to have a multicultural education system that:

(1) attracts and retains quality and diverse teachers to teach New Mexico's multicultural student population;

(2) holds teachers, students, schools, school districts and the state accountable;

(3) integrates the cultural strengths of its diverse student population into the curriculum with high expectations for all students;

(4) recognizes that cultural diversity in the state presents special challenges for policymakers, administrators, teachers and students;

(5) provides students with a rigorous and relevant high school curriculum that prepares them to succeed in college and the workplace; and

(6) elevates the importance of public education in the state by clarifying the governance structure at different levels.

C. The legislature finds further that the teacher shortage in this country has affected the ability of

New Mexico to compete for the best teachers and that, unless the state and school districts find ways to mentor beginning teachers, intervene with teachers while they still show promise, improve the job satisfaction of quality teachers and elevate the teaching profession by shifting to a professional educator licensing and salary system, public schools will be unable to recruit and retain the highest quality teachers in the teaching profession in New Mexico.

D. The legislature finds further that a

well-designed, well-implemented and well-maintained assessment and accountability system is the linchpin of public school reform and must ensure that:

(1) students who do not meet or exceed expectations will be given individual attention and assistance through extended learning programs and individualized tutoring;

(2) students have accurate, useful information about their options and the adequacy of their preparation for post-secondary education, training or employment in order to set and achieve high goals;

(3) teachers who do not meet performance standards must improve their skills or they will not continue to be employed as teachers;

(4) public schools make adequate yearly progress toward educational excellence; and

(5) school districts and the state are prepared to actively intervene and improve failing public schools.

E. The legislature finds further that improving children's reading and writing abilities and literacy throughout their years in school must remain a priority of the state.

F. The legislature finds further that the public school governance structure needs to change to provide accountability from the bottom up instead of from the top down. Each school principal, with the help of school councils made up of parents and teachers, must be the instructional leader in the public school, motivating and holding accountable both teachers and students. Each local superintendent must function as

the school district's chief executive officer and have responsibility for the day-to-day operations of the school district, including personnel and student disciplinary decisions.

G. It is the purpose of the 2003 public school reform legislation as augmented by this 2007 legislation to provide the framework to implement the legislative findings to ensure student success in New Mexico."

## **Chapter 308 Section 2 Laws 2007**

Section 2. Section 22-2C-1 NMSA 1978 (being Laws 2003, Chapter 153, Section 10) is amended to read:

"22-2C-1. SHORT TITLE.--Chapter 22, Article 2C NMSA 1978 may be cited as the "Assessment and Accountability Act"."

## **Chapter 308 Section 3 Laws 2007**

Section 3. Section 22-2C-4 NMSA 1978 (being Laws 2003, Chapter 153, Section 13, as amended) is amended to read:

"22-2C-4. STATEWIDE ASSESSMENT AND ACCOUNTABILITY SYSTEM -- INDICATORS -- REQUIRED ASSESSMENTS -- ALTERNATIVE ASSESSMENTS -- LIMITS ON ALTERNATIVES TO ENGLISH LANGUAGE READING ASSESSMENTS.--

A. The department shall establish a statewide assessment and accountability system that is aligned with the state academic content and performance standards and that measures adequate yearly progress for each public school and school district. Adequate yearly progress shall be determined primarily by student academic achievement, as demonstrated by statewide standards-based assessments; however, the department may include other indicators of adequate yearly progress, including graduation rates for high schools and attendance for elementary and middle schools.

B. The academic assessment program for adequate yearly progress shall test student achievement as follows:

(1) for grades three through eight and for grade eleven, standards-based assessments in mathematics, reading and language arts and social studies;

(2) for grades three through eight, a standards-based writing assessment with the writing assessment scoring criteria applied to the extended response writing portions of the language arts standards-based assessments; and

(3) for one of grades three through five and six through eight and for grade eleven, standards-based assessments in science by the 2007-2008 school year.

C. The department shall involve appropriate licensed school employees in the development of the standards-based assessments.

D. All students shall participate in the academic assessment program. The department shall adopt standards for reasonable accommodations in standards-based assessments for students with disabilities and limited English proficiency, including when and how accommodations may be applied. The legislative education study committee shall review the standards prior to adoption by the department.

E. Students who have been determined to be limited English proficient may be allowed to take the standards-based assessment in their primary language. A student who has attended school for three consecutive years in the United States shall participate in the English language reading assessment unless granted a waiver by the department based on criteria established by the department. An English language reading assessment waiver may be granted only for a maximum of two additional years and only on a case-by-case basis."

## **Chapter 308 Section 4 Laws 2007**

Section 4. A new section of Chapter 22, Article 2C NMSA 1978 is enacted to read:

"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 the following components:

(1) a high school readiness assessment in English, reading, mathematics and science in the fall semester of grade nine;

(2) a college readiness assessment in English, reading and mathematics in grade ten; and

(3) a workplace readiness assessment to assess applied skills in reading, mathematics and locating information in grade eleven.

B. All students at the specified grade level shall participate in the readiness assessment system at no cost to the student.

C. The department shall ensure that results of performance on readiness assessments are reported to students, parents and public schools no later than four weeks following the date on which the assessments are administered, in a form that is easily understandable and useful in the next-step planning process. 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 or selecting the high school or college readiness assessments, the department may adopt commercially available standards-based assessments that meet the requirements of this section. The department shall involve appropriate licensed school employees in the development or selection of readiness assessments."

## **Chapter 308 Section 5 Laws 2007**

Section 5. Section 22-8-43 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 14, Section 2, as amended) is amended to read:

"22-8-43. PUBLIC SCHOOL READING PROFICIENCY FUND--CREATED.--The "public school reading proficiency fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants and donations. The fund shall be administered by the department, and money in the fund is appropriated to the department to distribute awards to public middle, junior and senior high schools that implement innovative, scientifically based reading programs. The department shall develop procedures and rules for the application and award of money from the fund, including criteria upon which to evaluate innovative, scientifically based reading programs. Public schools receiving funds shall show evidence that they are using quality, scientifically based reading research to improve reading proficiency and shall develop individualized reading plans for students who fail to meet grade level reading proficiency standards. Disbursements of the fund shall be made by warrant of the department of finance and administration pursuant to vouchers signed by the secretary or the secretary's authorized representative. Any unexpended or unencumbered balance remaining in the fund at the end of any fiscal year shall not revert but shall remain to the credit of the fund."

## **Chapter 308 Section 6 Laws 2007**

Section 6. Section 22-12-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 170, as amended) is amended to read:

"22-12-2. COMPULSORY SCHOOL ATTENDANCE--RESPONSIBILITY.--

A. Except as otherwise provided, a school-age person shall attend public school, private school, home school or a state institution until the school-age person is at least eighteen years of age unless that person has graduated from high school or received a general educational development certificate. A parent may give written, signed permission for the school-age person to leave school in case of hardship approved by the local superintendent.

B. A school-age person subject to the provisions of the Compulsory School Attendance Law shall attend school for at least the length of time of the school year that is established in the school district in which the person is a resident or the state-chartered charter school in which the person is enrolled and the school district or state-chartered charter school shall not excuse a student from attending school except as provided in that law or for parent-authorized medical reasons.

C. Any parent of a school-age person subject to the provisions of the Compulsory School Attendance Law is responsible for the school attendance of that person.

D. Each local school board and each governing body of a charter school or private school shall enforce the provisions of the Compulsory School Attendance Law for students enrolled in their respective schools."

## **Chapter 308 Section 7 Laws 2007**

Section 7. 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 on-line 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.

G. In ninth through twelfth grades, instruction that meets academic content and performance standards shall be provided in health education."

## **Chapter 308 Section 8 Laws 2007**

Section 8. Section 22-13-1.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 5, as amended by Laws 2005, Chapter 314, Section 1 and by Laws 2005, Chapter 315, Section 10) 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 or remediation programs that the college and workplace readiness assessments indicate to be appropriate;

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

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

E. The secretary shall:

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

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

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

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

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

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

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

(3) two units in science, one of which shall have a laboratory component; provided, however, that with students entering the ninth grade beginning in the 2005-2006 school year, three units in science shall be required, one of which shall have a laboratory component;

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

(5) one unit in physical education;

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

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

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

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

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

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

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

(2) four units in mathematics, of which one shall be the equivalent to or higher than the level of algebra 2, unless the parent submitted written, signed permission for the student to complete a lesser mathematics unit;

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

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

(5) one unit in physical education;

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

(7) seven and one-half elective units that meet department content and performance standards. Student service learning shall be offered as an elective.

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

K. Until July 1, 2010, a student who has not passed a state graduation examination in the subject areas of reading, English, mathematics, writing, science and social science shall not receive a high school diploma. The state graduation examination on social science shall include a section on the constitution of the United States and the constitution of New Mexico. If a student exits from the school system at the end of grade twelve without having passed a state graduation examination, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student exits from the school system the student takes and passes the state graduation examination, the student may receive a high school diploma.

L. Beginning with the 2010-2011 school year, a student shall not receive a New Mexico diploma of excellence if the student has not demonstrated competence in the subject areas of mathematics, reading and language arts, writing, social studies and science, including a section on the constitution of the United States and the constitution of New Mexico, based on a standards-based assessment or assessments or a portfolio

of standards-based indicators established by the department by rule no later than January 15, 2008. If a student exits from the school system at the end of grade twelve without having satisfied the requirements of this subsection, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student exits from the school system the student satisfies the requirement of this subsection, the student may receive a New Mexico diploma of excellence.

M. As used in this section:

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

(2) "interim next-step plan" means an annual next-step plan in which the student specifies

post-high-school goals and sets forth the coursework that will allow the student to achieve those goals; and

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

(a) advanced placement or honors courses;

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

(c) distance learning courses.

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

## **Chapter 308 Section 9 Laws 2007**

Section 9. Section 22-13-1.4 NMSA 1978 (being Laws 2005, Chapter 78, Section 1) is amended to read:

"22-13-1.4. HONORS OR SIMILAR CLASSES IN MATHEMATICS AND LANGUAGE ARTS -- DUAL CREDIT COURSES -- LANGUAGES OTHER THAN ENGLISH.--

A. Beginning with the 2006-2007 school year, each school district shall offer at least one honors or similar academically rigorous class each in mathematics and language arts in each high school.

B. Beginning in the 2008-2009 school year, each school district shall also offer a program of courses for dual-credit, in cooperation with an institution of higher education, and a program of distance learning courses.

C. Beginning with the 2009-2010 school year, each school district shall offer at least two years of a language other than English in each high school."

## **Chapter 308 Section 10 Laws 2007**

Section 10. A new section of the Public School Code is enacted to read:

"MIDDLE AND HIGH SCHOOL LITERACY INITIATIVE.--

A. School districts and charter schools may create comprehensive, coordinated middle and high school literacy initiatives to provide scientifically based literacy programs to improve the reading and writing proficiency of students in grades six through twelve.

B. The design of a middle and high school literacy initiative shall be based upon scientific research that shows that using the methods and materials proposed is effective in improving reading proficiency beyond the primary grades and shall include, at a minimum:

(1) instruction in nonfiction writing;

(2) ongoing teacher and school administrator professional development equal to that which was validated in the supporting research;

(3) use of student assessment data to guide and individualize instruction;  
and

(4) a rigorous and thorough evaluation component.

C. A middle and high school literacy initiative shall also incorporate some or all of the following elements:

(1) direct, explicit comprehension instruction;

(2) teacher teams, including language arts and content area instructors who implement mutually reinforcing practices;

(3) strategies to encourage motivation and self-directed learning;

- (4) text-based collaborative learning by groups of students;
- (5) strategic tutoring;
- (6) diverse texts;
- (7) a technology component; and
- (8) extended time for literacy.

D. School districts and charter schools that meet department eligibility requirements may apply to the department for awards from the public school reading proficiency fund for support for their middle and high school literacy initiatives. Applications shall be in a form prescribed by the department."

### **Chapter 308 Section 11 Laws 2007**

Section 11. REPEAL.--Sections 22-12-6, 22-13-9 and 22-13-10 NMSA 1978 (being laws 1967, Chapter 16, Sections 174, 183 and 184) are repealed.

### **Chapter 308 Section 12 Laws 2007**

Section 12. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 561, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 309**

### **AN ACT**

RELATING TO PUBLIC SCHOOLS; DISTINGUISHING A STUDENT'S ACADEMIC PROFICIENCY FROM THE ADEQUATE YEARLY PROGRESS OF PUBLIC SCHOOLS AND SCHOOL DISTRICTS; CONFORMING RANKINGS OF SCHOOLS IN NEED OF IMPROVEMENT WITH FEDERAL REQUIREMENTS; PROVIDING A PROCESS FOR REOPENING FAILING SCHOOLS AS STATE-CHARTERED CHARTER SCHOOLS; PROVIDING FOR THE DISAGGREGATION OF DATA BY GENDER; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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

## Chapter 309 Section 1 Laws 2007

Section 1. Section 22-1-2 NMSA 1978 (being Laws 2003, Chapter 153, Section 3, as amended by Laws 2005, Chapter 313, Section 3 and by Laws 2005, Chapter 315, Section 1) is amended to read:

"22-1-2. DEFINITIONS.--As used in the Public School Code:

A. "academic proficiency" means mastery of the subject-matter knowledge and skills specified in state academic content and performance standards for a student's grade level;

B. "adequate yearly progress" means the measure adopted by the department based on federal requirements to assess the progress that a public school or school district or the state makes toward improving student achievement;

C. "commission" means the public education commission;

D. "department" means the public education department;

E. "forty-day report" means the report of qualified student membership of each school district and of those eligible to be qualified students but enrolled in a private school or a home school for the first forty days of school;

F. "home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science;

G. "instructional support provider" means a person who is employed to support the instructional program of a school district, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, interpreter for the deaf and diagnostician;

H. "licensed school employee" means teachers, school administrators and instructional support providers;

I. "local school board" means the policy-setting body of a school district;

J. "local superintendent" means the chief executive officer of a school district;

K. "parent" includes a guardian or other person having custody and control of a school-age person;

L. "private school" means a school, other than a home school, that offers on-site programs of instruction and that is not under the control, supervision or management of a local school board;

M. "public school" means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes a charter school;

N. "school" means a supervised program of instruction designed to educate a student in a particular place, manner and subject area;

O. "school administrator" means a person licensed to administer in a school district and includes school principals and central district administrators;

P. "school-age person" means a person who is at least five years of age prior to 12:01 a.m. on September 1 of the school year and who has not received a high school diploma or its equivalent. A maximum age of twenty-one shall be used for a person who is classified as special education membership as defined in Section 22-8-21 NMSA 1978 or as a resident of a state institution;

Q. "school building" means a public school, an administration building and related school structures or facilities, including teacher housing, that is owned, acquired or constructed by the school district as necessary to carry out the functions of the school district;

R. "school bus private owner" means a person, other than a school district, the department, the state or any other political subdivision of the state, that owns a school bus;

S. "school district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes;

T. "school employee" includes licensed and nonlicensed employees of a school district;

U. "school principal" means the chief instructional leader and administrative head of a public school;

V. "school year" means the total number of contract days offered by public schools in a school district during a period of twelve consecutive months;

W. "secretary" means the secretary of public education;

X. "state agency" or "state institution" means the New Mexico military institute, New Mexico school for the blind and visually impaired, New Mexico school for the deaf, New Mexico boys' school, girls' welfare home, New Mexico youth diagnostic and development center, Sequoyah adolescent treatment center, Carrie Tingley crippled children's hospital, New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children;

Y. "state educational institution" means an institution enumerated in Article 12, Section 11 of the constitution of New Mexico;

Z. "substitute teacher" means a person who holds a certificate to substitute for a teacher in the classroom;

AA. "teacher" means a person who holds a level one, two or three-A license and whose primary duty is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers;

BB. "certified school instructor" means a teacher or instructional support provider; and

CC. "certified school employee" or "certified school personnel" means a licensed school employee."

## **Chapter 309 Section 2 Laws 2007**

Section 2. Section 22-2C-1 NMSA 1978 (being Laws 2003, Chapter 153, Section 10) is amended to read:

"22-2C-1. SHORT TITLE.--Chapter 22, Article 2C NMSA 1978 may be cited as the "Assessment and Accountability Act"."

## **Chapter 309 Section 3 Laws 2007**

Section 3. Section 22-2C-5 NMSA 1978 (being Laws 2003, Chapter 153, Section 14) is amended to read:

"22-2C-5. STUDENT ACHIEVEMENT RATINGS--CALCULATION OF ADEQUATE YEARLY PROGRESS.--The department shall adopt the process and methodology for calculating adequate yearly progress. The statewide standards-based assessments used to assess adequate yearly progress shall be valid and reliable and shall conform with nationally recognized professional and technical standards. Academic performance shall be measured by school and by the following subgroups:

A. ethnicity;

- B. race;
- C. limited English proficiency;
- D. students with disabilities; and
- E. poverty."

## **Chapter 309 Section 4 Laws 2007**

Section 4. Section 22-2C-6 NMSA 1978 (being Laws 1986, Chapter 33, Section 7, as amended) is amended to read:

"22-2C-6. REMEDIATION PROGRAMS--PROMOTION POLICIES--RESTRICTIONS.--

A. Remediation programs, academic improvement programs and promotion policies shall be aligned with school-district-determined assessment results and requirements of the state assessment and accountability program.

B. Local school boards shall approve school- district-developed remediation programs and academic improvement programs to provide special instructional assistance to students in grades one through eight who do not demonstrate academic proficiency. The cost of remediation programs and academic improvement programs shall be borne by the school district. Remediation programs and academic improvement programs shall be incorporated into the school district's educational plan for student success and filed with the department.

C. The cost of summer and extended day remediation programs and academic improvement programs offered in grades nine through twelve shall be borne by the parent; however, where parents are determined to be indigent according to guidelines established by the department, the school district shall bear those costs.

D. Diagnosis of weaknesses identified by a student's academic achievement may serve as criteria in assessing the need for remedial programs or retention.

E. A parent shall be notified no later than the end of the second grading period that the parent's child is not academically proficient, and a conference consisting of the parent and the teacher shall be held to discuss possible remediation programs available to assist the student in becoming academically proficient. Specific academic deficiencies and remediation strategies shall be explained to the student's parent and a written intervention plan developed containing time lines, academic expectations and the measurements to be used to verify that a student has overcome academic deficiencies. Remediation programs and academic improvement programs include

tutoring, extended day or week programs, summer programs and other research-based interventions and models for student improvement.

F. At the end of grades one through seven, three options are available, dependent on a student's academic proficiency:

(1) the student is academically proficient and shall enter the next higher grade;

(2) the student is not academically proficient and shall participate in the required level of remediation. Upon certification by the school district that the student is academically proficient, the student shall enter the next higher grade; or

(3) the student is not academically proficient after completion of the prescribed remediation program and upon the recommendation of the teacher and school principal shall either be:

(a) retained in the same grade for no more than one school year with an academic improvement plan developed by the student assistance team in order to become academically proficient, at which time the student shall enter the next higher grade; or

(b) promoted to the next grade if the parent refuses to allow the child to be retained pursuant to Subparagraph (a) of this paragraph. In this case, the parent shall sign a waiver indicating the parent's desire that the student be promoted to the next higher grade with an academic improvement plan designed to address specific academic deficiencies. The academic improvement plan shall be developed by the student assistance team outlining time lines and monitoring activities to ensure progress toward overcoming those academic deficiencies. Students failing to become academically proficient at the end of that year as measured by grades, performance on school district assessments and other measures identified by the school district shall be retained in the same grade for no more than one year in order to have additional time to achieve academic proficiency.

G. At the end of the eighth grade, a student who is not academically proficient shall be retained in the eighth grade for no more than one school year to become academically proficient or if the student assistance team determines that retention of the student in the eighth grade will not assist the student to become academically proficient, the team shall design a high school graduation plan to meet the student's needs for entry into the work force or a post-secondary educational institution. If a student is retained in the eighth grade, the student assistance team shall develop a specific academic improvement plan that clearly delineates the student's academic deficiencies and prescribes a specific remediation plan to address those academic deficiencies.

H. A student who does not demonstrate academic proficiency for two successive school years shall be referred to the student assistance team for placement in an

alternative program designed by the school district. Alternative program plans shall be filed with the department.

I. Promotion and retention decisions affecting a student enrolled in special education shall be made in accordance with the provisions of the individual educational plan established for that student.

J. For the purposes of this section:

(1) "academic improvement plan" means a written document developed by the student assistance team that describes the specific content standards required for a certain grade level that a student has not achieved and that prescribes specific remediation programs such as summer school, extended day or week school and tutoring;

(2) "school-district-determined assessment results" means the results obtained from student assessments developed or adopted by a local school board and conducted at an elementary grade level or middle school level;

(3) "educational plan for student success" means a student-centered tool developed to define the role of the academic improvement plan within the public school and the school district that addresses methods to improve student learning and success in school and that identifies specific measures of a student's progress; and

(4) "student assistance team" means a group consisting of a student's:

- (a) teacher;
- (b) school counselor;
- (c) school administrator; and
- (d) parent."

## **Chapter 309 Section 5 Laws 2007**

Section 5. Section 22-2C-7 NMSA 1978 (being Laws 2003, Chapter 153, Section 16, as amended) is amended to read:

"22-2C-7. ADEQUATE YEARLY PROGRESS--SCHOOL IMPROVEMENT PLANS--CORRECTIVE ACTION--RESTRUCTURING.--

A. A public school that fails to make adequate yearly progress for two consecutive school years shall be identified as a school in need of improvement. A school in need of improvement shall be ranked as:

- (1) school improvement 1;
- (2) school improvement 2;
- (3) corrective action;
- (4) restructuring 1; or
- (5) restructuring 2.

B. Within ninety days of being notified that a public school within the school district has been identified as a public school in need of improvement, the school district shall submit an improvement plan for that public school to the department. In developing the improvement plan, the local superintendent, the president of the local school board and the school principal of the public school in need of improvement shall hold a public meeting to inform parents and the public of the public school's rank. The meeting shall be used to elicit suggestions from parents and the public on how to improve the public school. After the public meeting, the school district shall develop the public school's improvement plan, and the local school board shall approve the improvement plan before it is submitted to the department. The improvement plan shall be approved by the department within thirty days of its submission.

C. The improvement plan shall include:

(1) documentation of performance measures in which the public school failed to make adequate yearly progress;

(2) measurable objectives to indicate the action that will be taken to address failed measures;

(3) benchmarks to be used to indicate progress in meeting academic content and performance standards;

(4) an estimate of the time and the resources needed to achieve each objective in the improvement plan;

(5) the support services that shall be provided to students;

(6) applications that have been made for federal and state funds; and

(7) any other information that the public school that needs improvement, the local superintendent, the local school board or the department deems necessary.

D. A public school in need of improvement may apply to the department for financial or other assistance in accordance with the improvement plan. The public school shall make application for assistance substantially in the form required by the

department. The department shall evaluate applications for assistance and may recommend changes to an application or to an improvement plan if warranted by the final application. The department shall consider innovative methods to assist the public school in meeting its improvement plan, including department or other school employees serving as a mobile assistance team to provide administrative, classroom, human resource and other assistance to the public school that needs improvement as needed and as provided in applications approved by the department.

E. If a public school has failed to make adequate yearly progress for two consecutive school years it shall be placed in school improvement 1 and shall provide transportation or pay the cost of transportation, within available funds, for students who choose to enroll in a higher ranked public school.

F. If a public school has failed to make adequate yearly progress for three consecutive school years it shall be placed in school improvement 2 and shall provide supplemental services, including after-school programs, tutoring and summer services to its Title I-eligible students, within available funds.

G. The department shall adopt rules that govern the priority for students for whom supplemental services shall be provided and for students for whom transportation costs are paid. The rules shall include the adoption of a sliding-fee schedule based on the educational level of tutors in New Mexico and require that providers use a pre- and post-assessment instrument approved by the department to measure the gains that students achieve through supplemental services.

H. If a public school has failed to make adequate yearly progress for four consecutive school years, it shall be placed in corrective action and the school district, in conjunction with the department, shall take one or more of the following actions in addition to earlier improvements:

- (1) replace staff as allowed by law;
- (2) implement a new curriculum;
- (3) decrease management authority of the public school;
- (4) appoint an outside expert to advise the public school;
- (5) extend the school day or year; or
- (6) change the public school's internal organizational structure.

I. If a public school has failed to make adequate yearly progress for five consecutive school years, it shall be placed in restructuring 1 and shall continue the improvement measures implemented pursuant to Subsections B through H of this

section and begin planning for restructuring of the public school if it fails to make adequate yearly progress in the sixth year.

J. If a public school has failed to make adequate yearly progress for six consecutive years, it shall be placed in restructuring 2. The school district, in conjunction with the department, shall take one or more of the following actions in addition to other improvements:

(1) recommend reopening the public school as a state-chartered charter school as provided in Section 22-2C-7.1 NMSA 1978;

(2) replace all or most of the staff as allowed by law;

(3) turn over the management of the public school to the department; or

(4) make other governance changes.

K. A school district that has failed to make adequate yearly progress for two consecutive school years may be subject to the same requirements as a public school subject to corrective action, as determined by the department. A school district that fails to make adequate yearly progress for four consecutive school years shall be subject to corrective action.

L. The state, a school district or a charter school shall not enter into management contracts with private entities for the management of a public school or a school district subject to corrective action.

M. If a public school that is identified as a school in need of improvement makes adequate yearly progress in the year that it has been placed in school improvement 1, school improvement 2, corrective action or restructuring 1, it shall not move to the next school improvement rank for one year. If the public school makes adequate yearly progress for a second consecutive year, it shall be removed from the ranks of schools in need of improvement.

N. Nothing in this section shall be construed to restrict the powers and duties of the secretary or the department under the Public School Code."

## **Chapter 309 Section 6 Laws 2007**

Section 6. A new section of the Assessment and Accountability Act, Section 22-2C-7.1 NMSA 1978, is enacted to read:

"22-2C-7.1. FAILING SCHOOL SUBJECT TO REOPENING AS STATE-  
CHARTERED CHARTER SCHOOL--REQUIREMENTS.--

A. If, pursuant to Subsections I and J of Section 22-2C-7 NMSA 1978, the school district in which a public school that has failed to make adequate yearly progress for five consecutive years recommends that the public school be reopened as a state-chartered charter school, the department, after holding a public hearing in the school district, may take steps to have the public school reopened as a state-chartered charter school.

B. To reopen as a state-chartered charter school:

(1) the school's current enrollment for all grades cannot exceed ten percent of the total MEM of the school district where it is located when the school district has a total enrollment of less than one thousand three hundred students;

(2) the department, after obtaining information and community input during the public hearing, shall find at least five qualified persons willing to serve in an interim capacity as a governing body;

(3) the governing body shall employ a qualified school administrator within thirty days of its appointment by the department;

(4) the governing body shall qualify as a board of finance and satisfy any conditions imposed by the commission prior to commencing full operation;

(5) the governing body shall develop a written plan and proposed charter that is satisfactory to the commission and that at a minimum addresses the following issues:

(a) the employment, discharge, termination or displacement of current school employees, including the effect of employment decisions on current employment contracts and collective bargaining agreements;

(b) fiscal and records management;

(c) instructional and administrative facilities;

(d) student transportation;

(e) special education;

(f) curriculum;

(g) education-related and other services;

(h) accreditation;

(i) food service;

(j) graduation requirements, if a waiver of state graduation requirements is sought;

(k) governance turnover; and

(l) student assessments and school accountability;

(6) the governing body and the school shall comply with any other substantive or procedural requirements imposed on them by law or rule of the department; and

(7) the department and the governing body shall have a plan to provide for an orderly transition.

C. If, within ninety days of its determination that the school should be reopened as a state-chartered charter school, the department is unable to constitute a qualified governing body or the governing body does not have its charter approved by the commission and does not find a qualified school administrator able to commence operation of the proposed state-chartered charter school, the failing school shall not be reopened as a state-chartered charter school. Failure to reopen the school as a state-chartered charter school does not affect other actions that may be taken to improve the school.

D. The provisions of the Charter Schools Act shall apply to a public school that is reopened as a state-chartered charter school."

## **Chapter 309 Section 7 Laws 2007**

Section 7. Section 22-2C-11 NMSA 1978 (being Laws 2003, Chapter 153, Section 20, as amended) is amended to read:

"22-2C-11. ASSESSMENT AND ACCOUNTABILITY SYSTEM REPORTING--  
PARENT SURVEY--DATA SYSTEM--FISCAL INFORMATION.--

A. The department shall:

(1) issue a state identification number for each public school student for use in the accountability data system;

(2) adopt the format for reporting individual student assessments to parents. The student assessments shall report each student's progress and academic needs as measured against state standards;

(3) adopt the format for reporting annual yearly progress of public schools, school districts and the department. If the department has adopted a state improving schools program, the annual accountability report shall include the results of that

program for each public school. The annual accountability report format shall be clear, concise and understandable to parents and the general public. All annual accountability reports shall ensure that the privacy of individual students is protected; and

(4) require that when public schools, school districts and the state disaggregate and report school data for demographic subgroups, they include data disaggregated by gender.

B. Local school boards may establish additional indicators through which to measure the school district's performance in areas other than adequate yearly progress.

C. The school district's annual accountability report shall include a report of graduation rates for each public high school in the school district. As part of the graduation rate data, the school district shall indicate contributing factors to nongraduation such as transfer out of the school district, pregnancy, dropout and other factors as known.

D. The school district's annual accountability report shall include the results of a survey of parents' views of the quality of their children's school. The survey shall be conducted each year in time to include the results in the annual accountability report. The survey shall compile the results of a written questionnaire that shall be sent home with the students to be given to their parents. The survey may be completed anonymously. The survey shall be no more than one page, shall be clearly and concisely written and shall include not more than twenty questions that shall be answered with options of a simple sliding scale ranging from "strongly agree" to "strongly disagree" and shall include the optional response "don't know". The survey shall also include a request for optional written comments, which may be written on the back of the questionnaire form. The questionnaire shall include questions in the following areas:

- (1) parent-teacher-school relationship and communication;
- (2) quality of educational and extracurricular programs;
- (3) instructional practices and techniques;
- (4) resources;
- (5) school employees, including the school principal; and
- (6) parents' views of teaching staff expectations for the students.

E. The department shall develop no more than ten of the survey questions, which shall be reviewed by the legislative education study committee prior to implementation. No more than five survey questions shall be developed by the local school board, and no more than five survey questions shall be developed by the staffs of each public

school; provided that at least one-half of those questions shall be developed by teachers rather than school administrators, in order to gather information that is specific to the particular community surveyed. The questionnaires shall indicate the public school site and shall be tabulated by the department within thirty days of receipt and shall be returned to the respective schools to be disseminated to all parents.

F. The school district's annual accountability report shall be adopted by the local school board, shall be published no later than November 15 of each year and shall be published at least once each school year in a newspaper of general circulation in the county where the school district is located. In publication, the report shall be titled "The School District Report Card" and disseminated in accordance with guidelines established by the department to ensure effective communication with parents, students, educators, local policymakers and business and community organizations.

G. The annual accountability report shall include the names of those local school board members who failed to attend annual mandatory training.

H. The annual accountability report shall include data on expenditures for central office administration and expenditures for the public schools of the school district.

I. The department shall create an accountability data system through which data from each public school and each school district may be compiled and reviewed. The department shall provide the resources to train school district personnel in the use of the accountability data system.

J. The department shall verify data submitted by the school districts.

K. At the end of fiscal year 2005, after the budget approval cycle, the department shall produce a report to the legislature that shows for all school districts using performance-based program budgeting the relationship between that portion of a school district's program cost generated by each public school in the school district and the budgeted expenditures for each public school in the school district as reported in the district's performance-based program budget. At the end of fiscal year 2006 and subsequent fiscal years, after the budget approval cycle, the department shall report on this relationship in all public schools in all school districts in the state.

L. When all public schools are participating in performance-based budgeting, the department shall recommend annually to the legislature for inclusion in the general appropriation act the maximum percentage of appropriations that may be expended in each school district for central office administration.

M. The department shall disseminate its statewide accountability report to school districts; the governor, legislators and other policymakers; and business and economic development organizations."

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House Bill 34, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 310**

AN ACT

RELATING TO FINANCE; AUTHORIZING THE ISSUANCE OF BONDS SECURED BY A STATE GROSS RECEIPTS TAX INCREMENT FOR THE MESA DEL SOL TAX INCREMENT DEVELOPMENT PROJECT; PROHIBITING CERTAIN FUTURE CAPITAL PROJECTS; DECLARING AN EMERGENCY.

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

### **Chapter 310 Section 1 Laws 2007**

Section 1. AUTHORIZATION OF ISSUANCE OF BONDS.--Pursuant to the provisions of Section 5-15-21 NMSA 1978, the legislature authorizes the issuance of bonds not to exceed five hundred million dollars (\$500,000,000) in net proceeds as adjusted for inflation, secured by a gross receipts tax increment attributed to the imposition of the state gross receipts tax for the Mesa del Sol tax increment development project, subject to (1) the determination that has been made by the New Mexico finance authority that the proceeds of the bonds issued pursuant to this authorization will be used for the Mesa del Sol tax increment development project in accordance with the development plan, (2) the review by the New Mexico finance authority of the master indenture prior to issuance of any bonds and (3) the review by the New Mexico finance authority of any proposed amendments to the master indenture prior to the issuance of any bonds subsequent to such amendments.

### **Chapter 310 Section 2 Laws 2007**

Section 2. DURATION OF AUTHORIZATION.--The duration of the authorization for issuance of bonds in this act is unlimited, unless and until this act is repealed or modified by the legislature.

### **Chapter 310 Section 3 Laws 2007**

Section 3. CERTAIN CAPITAL PROJECTS PROHIBITED.--

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

- (1) public school buildings or facilities;
- (2) higher education buildings or facilities;
- (3) cultural buildings or facilities;
- (4) buildings or facilities used for public safety; or
- (5) buildings used for other public purposes.

B. Nothing in this section prohibits the legislature from authorizing expenditures, pursuant to law, for economic development projects within a specific Mesa del Sol tax increment development district for which any tax increment development bonds are outstanding.

### **Chapter 310 Section 4 Laws 2007**

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

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Senate Bill 839, as amended

with emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 311**

AN ACT

RELATING TO TRIBAL COMPACT NEGOTIATIONS; AMENDING THE COMPACT NEGOTIATION ACT TO LIMIT THE TIME AN INDIAN NATION, TRIBE OR PUEBLO MAY OPT INTO THE 2007 AMENDMENTS NEGOTIATED TO THE 2001 TRIBAL GAMING COMPACTS.

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

### **Chapter 311 Section 1 Laws 2007**

Section 1. Section 11-13A-4 NMSA 1978 (being Laws 1999, Chapter 252, Section 4) is amended to read:

"11-13A-4. SUBMITTAL TO COMMITTEE -- COMMITTEE ACTION --  
LEGISLATIVE ACTION.--

A. Submittal of a proposed compact or amendment occurs when the compact or amendment and the submittal document are received for the committee by the legislative council service.

B. After its receipt, the committee shall review the proposed compact or amendment in a timely manner but no later than forty-five days from receipt and shall:

(1) recommend approval of the proposed compact or amendment by submitting a joint resolution to approve the compact or amendment to the legislature; or

(2) by written transmittal document, propose specific modifications to the proposed compact or amendment and request the governor to resume negotiations with the tribe.

C. If the committee proposes specific modifications to the proposed compact or amendment, the governor or the governor's designated representative shall resume negotiations with the tribe within twenty days of receipt of the transmittal document unless within that time period either the governor or the tribe refuses to negotiate further, in which case the governor shall notify the committee immediately.

D. If negotiations are resumed pursuant to Subsection C of this section and a modified proposed compact or amendment is agreed to, the governor shall submit the modified proposed compact or amendment together with any additional analysis or recommendations to the committee. The approval process described in this section for the originally submitted proposed compact or amendment shall be followed for consideration of a proposed modified compact or a proposed modified amendment, except that the committee shall conduct its review in a timely manner but in not more than thirty days.

E. Within thirty days of being notified that further negotiations are refused, the committee shall meet to reconsider the proposed compact or amendment together with any changes agreed upon by the negotiating parties. The committee shall submit to the legislature the proposed compact or amendment and a joint resolution to approve the proposed compact or amendment with the committee's recommendation to approve it or disapprove it, or expressing no recommendation on the action that should be taken by the legislature.

F. The committee may return a proposed compact or amendment with suggested modifications to the governor and the tribe for renegotiation no more than three times. After the third submittal for renegotiation, the committee shall submit to the legislature the proposed compact or amendment and a joint resolution to approve the proposed compact or amendment with the committee's recommendation to approve it or

disapprove it, or expressing no recommendation on the action that should be taken by the legislature.

G. If the legislature is in session when the committee makes its decision on the proposed compact or amendment, the committee shall prepare and introduce a joint resolution to approve the proposed compact or amendment without delay after reaching its decision. The joint resolution shall be accompanied by the committee's recommendation to approve or to disapprove or expressing no recommendation. A joint resolution may cover more than one compact or amendment if the terms of the compacts or amendments are identical except for the name of the tribe and the name of the person executing the compact on behalf of the tribe. If a majority in each house votes to adopt the joint resolution, the proposed compact or amendment is approved by the legislature, and the governor shall execute it on behalf of the state.

H. If the legislature is not in session when the recommendation of the committee is submitted, the committee shall proceed pursuant to the provisions of Subsection G of this section by no later than the second day of the next regular or special session of the legislature.

I. The legislature may only amend or modify the joint resolution submitted to it pursuant to the provisions of this section so as to correct technical errors in the text or format. Neither house may refer the joint resolution to a committee other than a committee of the whole in each house.

J. If a request for negotiation of a compact or amendment is made and the proposed compact or amendment is identical to a compact or amendment previously approved by the legislature except for the name of the compacting tribe and the names of the persons to execute the compact or amendment on behalf of the tribe and on behalf of the state, the governor shall approve and sign the compact or amendment on behalf of the state without submitting the compact for approval pursuant to the provisions of this section; provided that, with respect to a compact or amendment approved by the first session of the forty-eighth legislature, the request shall be received by the governor by no later than two hundred forty days following the date on which the compact or amendment was approved by the legislature, or, in the case of a request by a tribe that has not entered into a compact as of two hundred forty days following the date on which the compact or amendment was approved by the legislature, two hundred forty days following the date the tribe first executes the 2001 tribal gaming compact with the state. A compact or amendment signed by the governor pursuant to this subsection is deemed approved by the legislature."

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Senate Bill 1134, without

emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 312**

AN ACT

RELATING TO PROCUREMENT; PROVIDING FOR THE USE OF MULTIPLE SOURCE CONTRACTS FOR CERTAIN PROJECTS; PROVIDING FOR SEPARATE PRICING OF CERTAIN COMPONENTS IN CERTAIN CIRCUMSTANCES; CHANGING THE DEFINITION OF "STATE PUBLIC WORKS PROJECTS"; CHANGING THE APPROVAL PROCESS FOR PROPERTY CONTROL DIVISION CONTRACTS OF LESS THAN FIVE HUNDRED THOUSAND DOLLARS (\$500,000).

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

### **Chapter 312 Section 1 Laws 2007**

Section 1. A new section of the Procurement Code is enacted to read:

"MULTIPLE SOURCE CONTRACTS--ARCHITECTURAL AND DESIGN SERVICE CONTRACTS--INDEFINITE QUANTITY CONSTRUCTION CONTRACTS.

A. A state agency may procure multiple architectural or engineering design service contracts for multiple projects under a single qualifications-based request for proposals, provided the total amount of a contract and all renewals does not exceed two hundred thousand dollars (\$200,000) over four years.

B. A state agency may procure multiple indefinite quantity construction contracts pursuant to a price agreement for multiple projects under a single request for proposals, provided the total amount of a contract and all renewals does not exceed two million dollars (\$2,000,000) over four years and the contract provides that any one purchase order under the contract may not exceed five hundred thousand dollars (\$500,000).

C. A state agency may make procurements in accordance with the provision of Subsection A or B of this section if:

(1) the advertisement and request for proposals states that multiple contracts may or will be awarded, states the number of contracts that may or will be awarded and describes the services or construction to be performed under each contract;

(2) there is a single selection process for all of the multiple contracts, except that for each contract there may be a separate final list and a separate negotiation of contract terms;

(3) each of the multiple contracts for professional design services or construction shall have a term not exceeding four years, including all extensions and renewals;

(4) a contract shall not be awarded pursuant to this section to a firm that is currently performing under a contract issued pursuant to this section if the total amount of all contracts issued pursuant to this section to that firm would exceed:

(a) two hundred thousand dollars (\$200,000) in any four-year period, for architectural or engineering design services; or

(b) two million dollars (\$2,000,000) in any four-year period, for construction services; and

(5) the procurement is subject to the limitations of Sections 13-1-150 through 13-1-154 NMSA 1978."

## **Chapter 312 Section 2 Laws 2007**

Section 2. A new section of the Procurement Code is enacted to read:

"SPECIFICATION OF CERTAIN COMPONENTS--SEPARATE PRICING REQUIRED.--Prior to submitting a bid or proposal for a state public works project, if the state purchasing agent, or a responsible bidder or responsible offeror determines that there is only one source for a specific service, construction or item of tangible personal property that is required in the specifications, the state purchasing agent, responsible bidder or responsible offeror may require any bid or offer submitted by a subcontractor or supplier to price separately the specific service, construction or item of tangible personal property."

## **Chapter 312 Section 3 Laws 2007**

Section 3. Section 15-3B-6 NMSA 1978 (being Laws 1968, Chapter 43, Section 5, as amended) is amended to read:

"15-3B-6. BUILDING AND REMODELING.--The division may do all acts necessary and proper for the redesigning, major renovation and remodeling of present state buildings and the erection of additional state buildings when needed. The division may let contracts for these purposes in accordance with the provisions of the Procurement Code. All such remodeling, major renovation and construction must be approved by the state board of finance. Contracts costing more than five hundred thousand dollars (\$500,000), not including gross receipts tax, must first be approved by the state board of finance. All other contracts shall be reported to the state board of finance at its next regularly scheduled meeting after the contract is fully executed. This section applies only to state buildings under the division's jurisdiction."

## **Chapter 312 Section 4 Laws 2007**

Section 4. Section 13-1-91 NMSA 1978 (being Laws 1984, Chapter 65, Section 64, as amended) is amended to read:

"13-1-91. DEFINITION--STATE PUBLIC WORKS PROJECT.--"State public works project" means a project of a state agency, not including projects of the state educational institutions, the supreme court building commission, the legislature or local public bodies, that uses architectural or engineering services requiring professional services costing fifty thousand dollars (\$50,000) or more or landscape architectural or surveying services requiring professional services costing five thousand dollars (\$5,000) or more, excluding applicable state and local gross receipts taxes."

## **Chapter 312 Section 5 Laws 2007**

Section 5. Section 13-1-153 NMSA 1978 (being Laws 1984, Chapter 65, Section 126) is amended to read:

"13-1-153. MULTIPLE SOURCE AWARD--LIMITATIONS ON USE.--A multiple source award may be made pursuant to Section

13-1-110 NMSA 1978 or Section 1 of this 2007 act when awards to two or more bidders or offerors are necessary for adequate delivery or service. Multiple source awards shall not be made when a single award will meet the needs of the state agency or a local public body without sacrifice of economy or service. Awards shall be limited to the least number of suppliers in one geographical area necessary to meet the requirements of the state agency or a local public body. A multiple source award shall be based upon the lowest responsible bid or proposal received in each geographical area unless the award is made in response to a qualifications-based proposal."

## **Chapter 312 Section 6 Laws 2007**

Section 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 555, as amended

Approved April 2, 2007

# **LAWS 2007, CHAPTER 313**

AN ACT

RELATING TO FINANCE; AUTHORIZING THE ISSUANCE OF BONDS SECURED BY A STATE GROSS RECEIPTS TAX INCREMENT FOR THE MESA DEL SOL TAX INCREMENT DEVELOPMENT PROJECT; PROHIBITING CERTAIN FUTURE CAPITAL PROJECTS; DECLARING AN EMERGENCY.

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

### **Chapter 313 Section 1 Laws 2007**

Section 1. AUTHORIZATION OF ISSUANCE OF BONDS.--Pursuant to the provisions of Section 5-15-21 NMSA 1978, the legislature authorizes the issuance of bonds not to exceed five hundred million dollars (\$500,000,000) in net proceeds as adjusted for inflation, secured by a gross receipts tax increment attributed to the imposition of the state gross receipts tax for the Mesa del Sol tax increment development project, subject to (1) the determination that has been made by the New Mexico finance authority that the proceeds of the bonds issued pursuant to this authorization will be used for the Mesa del Sol tax increment development project in accordance with the development plan, (2) the review by the New Mexico finance authority of the master indenture prior to issuance of any bonds and (3) the review by the New Mexico finance authority of any proposed amendments to the master indenture prior to the issuance of any bonds subsequent to such amendments.

### **Chapter 313 Section 2 Laws 2007**

Section 2. DURATION OF AUTHORIZATION.--The duration of the authorization for issuance of bonds in this act is unlimited, unless and until this act is repealed or modified by the legislature.

### **Chapter 313 Section 3 Laws 2007**

Section 3. CERTAIN CAPITAL PROJECTS PROHIBITED.--

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

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

(5) buildings used for other public purposes.

B. Nothing in this section prohibits the legislature from authorizing expenditures, pursuant to law, for economic development projects within a specific Mesa del Sol tax increment development district for which any tax increment development bonds are outstanding.

### **Chapter 313 Section 4 Laws 2007**

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 1088, as amended

with emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 314**

AN ACT

RELATING TO TRIBAL COMPACT NEGOTIATIONS; AMENDING THE COMPACT NEGOTIATION ACT TO LIMIT THE TIME AN INDIAN NATION, TRIBE OR PUEBLO MAY OPT INTO THE 2007 AMENDMENTS NEGOTIATED TO THE 2001 TRIBAL GAMING COMPACTS.

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

### **Chapter 314 Section 1 Laws 2007**

Section 1. Section 11-13A-4 NMSA 1978 (being Laws 1999, Chapter 252, Section 4) is amended to read:

"11-13A-4. SUBMITTAL TO COMMITTEE--COMMITTEE ACTION--

LEGISLATIVE ACTION.--

A. Submittal of a proposed compact or amendment occurs when the compact or amendment and the submittal document are received for the committee by the legislative council service.

B. After its receipt, the committee shall review the proposed compact or amendment in a timely manner but no later than forty-five days from receipt and shall:

(1) recommend approval of the proposed compact or amendment by submitting a joint resolution to approve the compact or amendment to the legislature; or

(2) by written transmittal document, propose specific modifications to the proposed compact or amendment and request the governor to resume negotiations with the tribe.

C. If the committee proposes specific modifications to the proposed compact or amendment, the governor or the governor's designated representative shall resume negotiations with the tribe within twenty days of receipt of the transmittal document unless within that time period either the governor or the tribe refuses to negotiate further, in which case the governor shall notify the committee immediately.

D. If negotiations are resumed pursuant to Subsection C of this section and a modified proposed compact or amendment is agreed to, the governor shall submit the modified proposed compact or amendment together with any additional analysis or recommendations to the committee. The approval process described in this section for the originally submitted proposed compact or amendment shall be followed for consideration of a proposed modified compact or a proposed modified amendment, except that the committee shall conduct its review in a timely manner but in not more than thirty days.

E. Within thirty days of being notified that further negotiations are refused, the committee shall meet to reconsider the proposed compact or amendment together with any changes agreed upon by the negotiating parties. The committee shall submit to the legislature the proposed compact or amendment and a joint resolution to approve the proposed compact or amendment with the committee's recommendation to approve it or disapprove it, or expressing no recommendation on the action that should be taken by the legislature.

F. The committee may return a proposed compact or amendment with suggested modifications to the governor and the tribe for renegotiation no more than three times. After the third submittal for renegotiation, the committee shall submit to the legislature the proposed compact or amendment and a joint resolution to approve the proposed compact or amendment with the committee's recommendation to approve it or disapprove it, or expressing no recommendation on the action that should be taken by the legislature.

G. If the legislature is in session when the committee makes its decision on the proposed compact or amendment, the committee shall prepare and introduce a joint resolution to approve the proposed compact or amendment without delay after reaching its decision. The joint resolution shall be accompanied by the committee's recommendation to approve or to disapprove or expressing no recommendation. A joint

resolution may cover more than one compact or amendment if the terms of the compacts or amendments are identical except for the name of the tribe and the name of the person executing the compact on behalf of the tribe. If a majority in each house votes to adopt the joint resolution, the proposed compact or amendment is approved by the legislature, and the governor shall execute it on behalf of the state.

H. If the legislature is not in session when the recommendation of the committee is submitted, the committee shall proceed pursuant to the provisions of Subsection G of this section by no later than the second day of the next regular or special session of the legislature.

I. The legislature may only amend or modify the joint resolution submitted to it pursuant to the provisions of this section so as to correct technical errors in the text or format. Neither house may refer the joint resolution to a committee other than a committee of the whole in each house.

J. If a request for negotiation of a compact or amendment is made and the proposed compact or amendment is identical to a compact or amendment previously approved by the legislature except for the name of the compacting tribe and the names of the persons to execute the compact or amendment on behalf of the tribe and on behalf of the state, the governor shall approve and sign the compact or amendment on behalf of the state without submitting the compact for approval pursuant to the provisions of this section; provided that, with respect to a compact or amendment approved by the first session of the forty-eighth legislature, the request shall be received by the governor by no later than two hundred forty days following the date on which the compact or amendment was approved by the legislature, or, in the case of a request by a tribe that has not entered into a compact as of two hundred forty days following the date on which the compact or amendment was approved by the legislature, two hundred forty days following the date the tribe first executes the 2001 tribal gaming compact with the state. A compact or amendment signed by the governor pursuant to this subsection is deemed approved by the legislature."

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House Bill 1298, as amended

with certificate of corrections

Approved April 2, 2007

## **LAWS 2007, CHAPTER 315**

AN ACT

RELATING TO PROCUREMENT; REVISING DEFINITIONS FOR "LOCAL PUBLIC WORKS PROJECT" AND "STATE PUBLIC WORKS PROJECT"; RAISING THE

## SMALL PURCHASE PROCUREMENT LIMITS FOR PROFESSIONAL SERVICES AND CONSTRUCTION SERVICES.

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

### **Chapter 315 Section 1 Laws 2007**

Section 1. Section 13-1-66.1 NMSA 1978 (being Laws 1989, Chapter 69, Section 4, as amended) is amended to read:

"13-1-66.1. DEFINITION--LOCAL PUBLIC WORKS PROJECT.--"Local public works project" means a project of a local public body that uses architectural or engineering services requiring professional services costing fifty thousand dollars (\$50,000) or more or landscape architectural or surveying services requiring professional services costing ten thousand dollars (\$10,000) or more, excluding applicable state and local gross receipts taxes."

### **Chapter 315 Section 2 Laws 2007**

Section 2. Section 13-1-91 NMSA 1978 (being Laws 1984, Chapter 65, Section 64, as amended) is amended to read:

"13-1-91. DEFINITION--STATE PUBLIC WORKS PROJECT.--"State public works project" means a project of a state agency, not including projects of the state educational institutions, the supreme court building commission, the legislature or local public bodies, that uses architectural or engineering services requiring professional services costing fifty thousand dollars (\$50,000) or more or landscape architectural or surveying services requiring professional services costing ten thousand dollars (\$10,000) or more, excluding applicable state and local gross receipts taxes."

### **Chapter 315 Section 3 Laws 2007**

Section 3. Section 13-1-125 NMSA 1978 (being Laws 1984, Chapter 65, Section 98, as amended) is amended to read:

"13-1-125. SMALL PURCHASES.--

A. A central purchasing office shall procure services, construction or items of tangible personal property having a value not exceeding twenty thousand dollars (\$20,000) in accordance with the applicable small purchase regulations adopted by the secretary, a local public body or a central purchasing office that has the authority to issue regulations.

B. Notwithstanding the requirements of Subsection A of this section, a central purchasing office may procure professional services having a value not exceeding fifty thousand dollars (\$50,000), excluding applicable state and local gross receipts taxes,

except for the services of landscape architects or surveyors for state public works projects or local public works projects, in accordance with professional services procurement regulations promulgated by the department of finance and administration, the general services department or a central purchasing office with the authority to issue regulations.

C. Notwithstanding the requirements of Subsection A of this section, a state agency or a local public body may procure services, construction or items of tangible personal property having a value not exceeding ten thousand dollars (\$10,000) by issuing a direct purchase order to a contractor based upon the best obtainable price.

D. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section."

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House Business and Industry

Committee Substitute for House

Business and Industry Committee

Substitute for House Bill 1147

Approved April 2, 2007

## **LAWS 2007, CHAPTER 316**

### **AN ACT**

RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; REQUIRING AN IGNITION INTERLOCK LICENSE PRIOR TO ISSUANCE OF A NEW MEXICO DRIVER'S LICENSE FOR CERTAIN PERSONS WHO HAVE DWI CONVICTIONS IN OTHER STATES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAWS IN LAWS 2005.

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

### **Chapter 316 Section 1 Laws 2007**

Section 1. Section 66-5-5 NMSA 1978 (being Laws 1978, Chapter 35, Section 227, as amended by Laws 2005, Chapter 241, Section 1 and by Laws 2005, Chapter 269, Section 1) is amended to read:

"66-5-5. PERSONS NOT TO BE LICENSED.--The division shall not issue a driver's license under the Motor Vehicle Code to any person:

A. who is under the age of eighteen years, except the division may, in its discretion, issue:

(1) an instruction permit to a person fifteen years of age or over who is enrolled in and attending or has completed a driver education course that includes a DWI education and prevention component approved by the bureau or offered by a public school;

(2) a provisional license to any person fifteen years and six months of age or older:

(a) who has completed a driver education course approved by the bureau or offered by a public school that includes a DWI education and prevention component and has had an instruction permit for at least six months; and

(b) who has successfully completed a practice driving component;

(3) a driver's license to any person sixteen years and six months of age or older:

(a) who has had a provisional license for the twelve-month period immediately preceding the date of the application for the driver's license;

(b) who has complied with restrictions on that license;

(c) who has not been convicted of a traffic violation that was committed during the ninety days prior to applying for a driver's license; and

(d) who has not been adjudicated for an offense involving the use of alcohol or drugs during that period and who has no pending adjudications alleging an offense involving the use of alcohol or drugs at the time of application; and

(4) to any person thirteen years of age or older who passes an examination prescribed by the division, a license restricted to the operation of a motorcycle, provided:

(a) the motorcycle is not in excess of one hundred cubic centimeters displacement;

(b) no holder of an initial license may carry any other passenger while driving a motorcycle; and

(c) the director approves and certifies motorcycles as not in excess of one hundred cubic centimeters displacement and by rule provides for a method of identification of such motorcycles by all law enforcement officers;

B. whose license or driving privilege has been suspended or denied, during the period of suspension or denial, or to any person whose license has been revoked, except as provided in Section 66-5-32 NMSA 1978 and the Ignition Interlock Licensing Act;

C. who is an habitual user of narcotic drugs or alcohol or an habitual user of any drug to a degree that renders the person incapable of safely driving a motor vehicle;

D. who is four or more times convicted of driving a motor vehicle while under the influence of intoxicating liquor or narcotic drug regardless of whether the convictions are under the laws or ordinances of this state or any municipality or county of this state or under the laws or ordinances of any other state, the District of Columbia or any governmental subdivision thereof, except as provided in the Ignition Interlock Licensing Act. Five years from the date of the fourth conviction and every five years thereafter, the person may apply to any district court of this state for restoration of the license, and the court, upon good cause being shown, may order restoration of the license applied for; provided that the person has not been subsequently convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs. Upon issuance of the order of restoration, a certified copy shall immediately be forwarded to the division, and if the person is otherwise qualified for the license applied for, the four previous convictions shall not prohibit issuance of the license;

E. who was convicted on or after June 17, 2005 of driving a motor vehicle while under the influence of intoxicating liquor or drugs pursuant to the laws or ordinances of any other state, the District of Columbia or any governmental subdivision thereof, unless the person obtains an ignition interlock license as provided in the Ignition Interlock Licensing Act for a period of one year for a first conviction; a period of two years for a second conviction; a period of three years for a third conviction; or the remainder of the offender's life for a fourth or subsequent conviction, subject to a five-year review as provided in Subsection D of this section. Upon presentation of proof satisfactory to the division, the division may credit time spent by a person operating a motor vehicle with an ignition interlock or comparable device, as a condition of the person's sentence for a conviction in another jurisdiction pursuant to this subsection, against the ignition interlock time requirements imposed by this subsection. The division shall promulgate rules necessary for granting credit to persons who participate in comparable out-of-state programs following a conviction for driving a motor vehicle while under the influence of intoxicating liquor or drugs. The requirements of this subsection shall not apply to a person who applies for a driver's license ten years or more from the date of the person's last conviction, except for a person who is subject to lifetime driver's license revocation for a conviction in another jurisdiction.

F. who has previously been afflicted with or who is suffering from any mental disability or disease that would render the person unable to drive a motor vehicle with safety upon the highways and who has not, at the time of application, been restored to health;

G. who is required by the Motor Vehicle Code to take an examination, unless the person has successfully passed the examination;

H. who is required under the laws of this state to deposit proof of financial responsibility and who has not deposited the proof;

I. when the director has good cause to believe that the operation of a motor vehicle on the highways by the person would be inimical to public safety or welfare; or

J. as a motorcycle driver who is less than eighteen years of age and who has not presented a certificate or other evidence of having successfully completed a motorcycle driver education program licensed or offered in conformance with rules of the bureau."

## **Chapter 316 Section 2 Laws 2007**

Section 2. Section 66-5-502 NMSA 1978 (being Laws 2003, Chapter 239, Section 2, as amended) is amended to read:

"66-5-502. DEFINITIONS.--As used in the Ignition Interlock Licensing Act:

A. "denied" means having an instructor's permit, driver's license or provisional license denied for driving while under the influence of intoxicating liquor or drugs, pursuant to the provisions of Subsection D or E of Section 66-5-5 NMSA 1978;

B. "ignition interlock device" means a device, approved by the traffic safety bureau, that prevents the operation of a motor vehicle by an intoxicated or impaired person;

C. "ignition interlock license" means a driver's license issued to a person by the division that allows that person to operate a motor vehicle with an ignition interlock device after that person's instructor's permit, driver's license or provisional license has been revoked or denied. The division shall clearly mark an ignition interlock license to distinguish it from other driver's licenses; and

D. "revoked" means having an instructor's permit, driver's license or provisional license revoked for driving while under the influence of intoxicating liquor or drugs, pursuant to the provisions of Section 66-8-102 or 66-8-111 NMSA 1978."

## **Chapter 316 Section 3 Laws 2007**

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

for Senate Bill 437, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 317**

AN ACT

RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; REQUIRING AN IGNITION INTERLOCK LICENSE PRIOR TO ISSUANCE OF A NEW MEXICO DRIVER'S LICENSE FOR CERTAIN PERSONS WHO HAVE DWI CONVICTIONS IN OTHER STATES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAWS IN LAWS 2005; PROVIDING A FEE; MAKING AN APPROPRIATION.

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

### **Chapter 317 Section 1 Laws 2007**

Section 1. Section 66-5-5 NMSA 1978 (being Laws 1978, Chapter 35, Section 227, as amended by Laws 2005, Chapter 241, Section 1 and by Laws 2005, Chapter 269, Section 1) is amended to read:

"66-5-5. PERSONS NOT TO BE LICENSED.--The division shall not issue a driver's license under the Motor Vehicle Code to any person:

A. who is under the age of eighteen years, except the division may, in its discretion, issue:

(1) an instruction permit to a person fifteen years of age or over who is enrolled in and attending or has completed a driver education course that includes a DWI education and prevention component approved by the bureau or offered by a public school;

(2) a provisional license to any person fifteen years and six months of age or older:

(a) who has completed a driver education course approved by the bureau or offered by a public school that includes a DWI education and prevention component and has had an instruction permit for at least six months; and

(b) who has successfully completed a practice driving component;

(3) a driver's license to any person sixteen years and six months of age or older:

(a) who has had a provisional license for the twelve-month period immediately preceding the date of the application for the driver's license;

(b) who has complied with restrictions on that license;

(c) who has not been convicted of a traffic violation that was committed during the ninety days prior to applying for a driver's license; and

(d) who has not been adjudicated for an offense involving the use of alcohol or drugs during that period and who has no pending adjudications alleging an offense involving the use of alcohol or drugs at the time of application; and

(4) to any person thirteen years of age or older who passes an examination prescribed by the division, a license restricted to the operation of a motorcycle, provided:

(a) the motorcycle is not in excess of one hundred cubic centimeters displacement;

(b) no holder of an initial license may carry any other passenger while driving a motorcycle; and

(c) the director approves and certifies motorcycles as not in excess of one hundred cubic centimeters displacement and by rule provides for a method of identification of such motorcycles by all law enforcement officers;

B. whose license or driving privilege has been suspended or denied, during the period of suspension or denial, or to any person whose license has been revoked, except as provided in Section 66-5-32 NMSA 1978 and the Ignition Interlock Licensing Act;

C. who is an habitual user of narcotic drugs or alcohol or an habitual user of any drug to a degree that renders the person incapable of safely driving a motor vehicle;

D. who is four or more times convicted of driving a motor vehicle while under the influence of intoxicating liquor or narcotic drug regardless of whether the convictions are under the laws or ordinances of this state or any municipality or county of this state or under the laws or ordinances of any other state, the District of Columbia or any governmental subdivision thereof, except as provided in the Ignition Interlock Licensing Act. Five years from the date of the fourth conviction and every five years thereafter, the person may apply to any district court of this state for restoration of the license, and the court, upon good cause being shown, may order restoration of the license applied for; provided that the person has not been subsequently convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs. Upon issuance of the order of restoration, a certified copy shall immediately be forwarded to the division, and if the

person is otherwise qualified for the license applied for, the four previous convictions shall not prohibit issuance of the license;

E. who was convicted on or after June 17, 2005 of driving a motor vehicle while under the influence of intoxicating liquor or drugs pursuant to the laws or ordinances of any other state, the District of Columbia or any governmental subdivision thereof, unless the person obtains an ignition interlock license as provided in the Ignition Interlock Licensing Act for a period of one year for a first conviction; a period of two years for a second conviction; a period of three years for a third conviction; or the remainder of the offender's life for a fourth or subsequent conviction, subject to a five-year review as provided in Subsection D of this section. Upon presentation of proof satisfactory to the division, the division may credit time spent by a person operating a motor vehicle with an ignition interlock or comparable device, as a condition of the person's sentence for a conviction in another jurisdiction pursuant to this subsection, against the ignition interlock time requirements imposed by this subsection. The division shall promulgate rules necessary for granting credit to persons who participate in comparable out-of-state programs following a conviction for driving a motor vehicle while under the influence of intoxicating liquor or drugs. The requirements of this subsection shall not apply to a person who applies for a driver's license ten years or more from the date of the person's last conviction, except for a person who is subject to lifetime driver's license revocation for a conviction in another jurisdiction pursuant to this subsection;

F. who has previously been afflicted with or who is suffering from any mental disability or disease that would render the person unable to drive a motor vehicle with safety upon the highways and who has not, at the time of application, been restored to health;

G. who is required by the Motor Vehicle Code to take an examination, unless the person has successfully passed the examination;

H. who is required under the laws of this state to deposit proof of financial responsibility and who has not deposited the proof;

I. when the director has good cause to believe that the operation of a motor vehicle on the highways by the person would be inimical to public safety or welfare; or

J. as a motorcycle driver who is less than eighteen years of age and who has not presented a certificate or other evidence of having successfully completed a motorcycle driver education program licensed or offered in conformance with rules of the bureau."

## **Chapter 317 Section 2 Laws 2007**

Section 2. Section 66-5-44 NMSA 1978 (being Laws 1978, Chapter 35, Section 266, as amended) is amended to read:

"66-5-44. LICENSES AND PERMITS--DURATION AND FEE--  
APPROPRIATION.--

A. There shall be paid to the department a fee of ten dollars (\$10.00) for each driver's license or duplicate driver's license, except that for a driver's license issued for an eight-year period, a fee of twenty dollars (\$20.00) shall be paid to the department. Each license shall be for a term provided for in Section 66-5-21 NMSA 1978.

B. For each permit and instruction permit, there shall be paid to the department a fee of two dollars (\$2.00). The term for each permit shall be as provided in Sections 66-5-8 and 66-5-9 NMSA 1978.

C. The director with the approval of the governor may increase the amount of the fees provided for in this section by an amount not to exceed three dollars (\$3.00) for the purpose of implementing an enhanced driver's license system; provided that for a driver's license issued for an eight-year period, the amount of the fees shall be twice the amount charged for other driver's licenses. The additional amounts collected pursuant to this subsection are appropriated to the department to defray the expense of the new system of licensing.

D. There shall be paid to the department a driver safety fee of three dollars (\$3.00) for each driver's license or duplicate driver's license, except that for a driver's license issued for an eight-year period, a fee of six dollars (\$6.00) shall be paid to the department. The fee shall be distributed to each school district for the purpose of providing defensive driving instruction through the state equalization guarantee distribution made annually pursuant to the general appropriation act.

E. The department may charge a fee of no more than fifteen dollars (\$15.00) to a person who holds a driver's license from another state and is applying for a New Mexico driver's license for the first time. The fee is appropriated to the department to defray the expense of determining whether the driver has been convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs, or equivalent crime, and determining if the person qualifies for a driver's license in this state. The fee provided in this section is not subject to the increase provided for in Subsection C of this section."

### **Chapter 317 Section 3 Laws 2007**

Section 3. Section 66-5-502 NMSA 1978 (being Laws 2003, Chapter 239, Section 2, as amended) is amended to read:

"66-5-502. DEFINITIONS.--As used in the Ignition Interlock Licensing Act:

A. "denied" means having an instructor's permit, driver's license or provisional license denied for driving while under the influence of intoxicating liquor or drugs, pursuant to the provisions of Subsection D or E of Section 66-5-5 NMSA 1978;

B. "ignition interlock device" means a device, approved by the traffic safety bureau, that prevents the operation of a motor vehicle by an intoxicated or impaired person;

C. "ignition interlock license" means a driver's license issued to a person by the division that allows that person to operate a motor vehicle with an ignition interlock device after that person's instructor's permit, driver's license or provisional license has been revoked or denied. The division shall clearly mark an ignition interlock license to distinguish it from other driver's licenses; and

D. "revoked" means having an instructor's permit, driver's license or provisional license revoked for driving while under the influence of intoxicating liquor or drugs, pursuant to the provisions of Section 66-8-102 or 66-8-111 NMSA 1978."

### **Chapter 317 Section 4 Laws 2007**

Section 4. APPROPRIATION.--One million one hundred thousand dollars (\$1,100,000) is appropriated from the general fund to the taxation and revenue department for expenditure in fiscal year 2008 for expenses related to verifying qualifications for driver's licenses and issuing ignition interlock licenses. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

### **Chapter 317 Section 5 Laws 2007**

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Judiciary Committee Substitute

for House Bill 126, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 318**

AN ACT

RELATING TO MOTOR VEHICLES; REQUIRING EDUCATIONAL TRAINING FOR MOTOR VEHICLE DEALER LICENSURE; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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

## Chapter 318 Section 1 Laws 2007

Section 1. Section 66-4-2 NMSA 1978 (being Laws 1978, Chapter 35, Section 215, as amended by Laws 2005, Chapter 15, Section 1 and by Laws 2005, Chapter 324, Section 14) is amended to read:

### "66-4-2. DEPARTMENT TO ISSUE LICENSE.--

A. Except for recreational vehicles, the department, upon receiving an initial nonfranchise dealership application accompanied by the required fee and when satisfied that the applicant is of good character, has completed eight hours of educational training as approved by the division and complies with the laws of this state with reference to the registration of vehicles and certificates of title and the provisions of the Motor Vehicle Code, shall issue to the applicant a license that entitles the licensee to conduct the business of a dealer, auto recycler or title service company. The license may be renewed upon application and payment of the fee required by law.

B. A dealer or auto recycler licensee, before moving any one or more of the licensee's places of business or opening any additional place of business, shall apply to the department for and obtain a supplemental license for which no fee shall be charged. No supplemental license shall be issued to a dealer, other than a dealer in motorcycles, for an additional place of business unless:

(1) the place of business is an established place of business; or

(2) the majority of dealers, other than dealers in motorcycles, in the county in which the proposed additional place of business would be located have been offered the opportunity, in documentation acceptable to the department, to offer vehicles for sale at the proposed additional place of business by the applicant; provided that the offer shall be for sale of vehicles at all times at which the applicant proposes to sell vehicles and shall not be conditioned upon the payment of any fee by any dealer to whom it is addressed greater than a fair share of the actual expenses incurred.

C. A person to whom the department has issued a license to conduct the business of a dealer in motorcycles is also deemed a wrecker of motorcycles without additional license.

D. The department is authorized to establish a staggered system for licensing of dealers, wholesalers, distributors and auto recyclers and of title service companies, provided that any license issued shall expire on the last day of a month. Licenses shall be issued for a period of twelve months.

E. On or after July 1, 2005, the holder of a wrecker of vehicles license desiring to renew the license shall apply for an auto recycler license, pursuant to the provisions of the Motor Vehicle Code, at the time the holder would have otherwise applied to renew the wrecker of vehicles license."

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Senate Bill 104

Approved April 2, 2007

## **LAWS 2007, CHAPTER 319**

### **AN ACT**

RELATING TO MOTOR VEHICLES; AMENDING AND ENACTING SECTIONS OF THE MOTOR VEHICLE CODE; REQUIRING BACKGROUND INVESTIGATIONS FOR CERTAIN MOTOR VEHICLE DIVISION EMPLOYEES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005; PROVIDING PENALTIES; REPEALING SECTIONS OF THE NMSA 1978.

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

### **Chapter 319 Section 1 Laws 2007**

Section 1. Section 7-14-6 NMSA 1978 (being Laws 1988, Chapter 73, Section 16, as amended) is amended to read:

"7-14-6. EXEMPTIONS FROM TAX.--

A. A person who acquires a vehicle out of state thirty or more days before establishing a domicile in this state is exempt from the tax if the vehicle was acquired for personal use.

B. A person applying for a certificate of title for a vehicle registered in another state is exempt from the tax if the person has previously registered and titled the vehicle in New Mexico and has owned the vehicle continuously since that time.

C. A vehicle with a certificate of title owned by this state or any political subdivision is exempt from the tax.

D. A person is exempt from the tax if the person has a disability at the time the person purchases a vehicle and can prove to the motor vehicle division of the department or its agent that modifications have been made to the vehicle that are:

(1) due to that person's disability; and

(2) necessary to enable that person to drive that vehicle or be transported in that vehicle.

E. A person is exempt from the tax if the person is a bona fide resident of New Mexico who served in the armed forces of the United States and who suffered, while serving in the armed forces or from a service-connected cause, the loss or complete and total loss of use of:

- (1) one or both legs at or above the ankle; or
- (2) one or both arms at or above the wrist.

F. A person who acquires a vehicle for subsequent lease shall be exempt from the tax if:

- (1) the person does not use the vehicle in any manner other than holding it for lease or sale or leasing or selling it in the ordinary course of business;
- (2) the lease is for a term of more than six months;
- (3) the receipts from the subsequent lease are subject to the gross receipts tax; and
- (4) the vehicle does not have a gross vehicle weight of over twenty-six thousand pounds.

G. From July 1, 2004 through June 30, 2009, vehicles that are gasoline-electric hybrid vehicles with a United States environmental protection agency fuel economy rating of at least twenty-seven and one-half miles per gallon are eligible for a one-time exemption from the tax at the time of the issuance of the original certificate of title for the vehicle."

## **Chapter 319 Section 2 Laws 2007**

Section 2. Section 66-1-4.1 NMSA 1978 (being Laws 1990, Chapter 120, Section 2, as amended) is amended to read:

"66-1-4.1. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "abandoned vehicle" means a vehicle or motor vehicle that has been determined by a New Mexico law enforcement agency:

- (1) to have been left unattended on either public or private property for at least thirty days;
- (2) not to have been reported stolen;
- (3) not to have been claimed by any person asserting ownership; and

(4) not to have been shown by normal

record-checking procedures to be owned by any person;

B. "access aisle" means a space designed to allow a person with a significant mobility limitation to safely exit and enter a motor vehicle that is immediately adjacent to a designated parking space for persons with significant mobility limitation and that may be common to two such parking spaces of at least sixty inches in width or, if the parking space is designed for van accessibility, ninety-six inches in width, and clearly marked with blue striping;

C. "actual empty weight" means the weight of a vehicle without a load;

D. "additional place of business", for dealers and auto recyclers, means locations in addition to an established place of business as defined in Section 66-1-4.5 NMSA 1978 and meeting all the requirements of an established place of business, except Paragraph (5) of Subsection C of Section 66-1-4.5 NMSA 1978, but "additional place of business" does not mean a location used solely for storage and that is not used for wrecking, dismantling, sale or resale of vehicles;

E. "alcoholic beverages" means any and all distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin, aromatic bitters or any similar alcoholic beverage, including all blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half percent alcohol but excluding medicinal bitters;

F. "authorized emergency vehicle" means any fire department vehicle, police vehicle, ambulance and any emergency vehicles of municipal departments or public utilities that are designated or authorized as emergency vehicles by the director of the New Mexico state police division of the department of public safety or local authorities; and

G. "auto recycler" means a person engaged in this state in an established business that includes acquiring vehicles that are required to be registered under the Motor Vehicle Code for the purpose of dismantling, wrecking, shredding, compacting, crushing or otherwise destroying vehicles for reclaimable parts or scrap material to sell."

## **Chapter 319 Section 3 Laws 2007**

Section 3. 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 to an individual that authorizes the individual to drive a motor vehicle; and

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."

## **Chapter 319 Section 4 Laws 2007**

Section 4. Section 66-1-4.5 NMSA 1978 (being Laws 1990, Chapter 120, Section 6, as amended) is amended to read:

"66-1-4.5. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "electric personal assistive mobility device" means a self-balancing device having two nontandem wheels designed to transport a single person by means of an electric propulsion system with an average power of one horsepower and with a maximum speed on a paved level surface of less than twenty miles per hour when powered solely by its propulsion system and while being ridden by an operator who weighs one hundred seventy pounds;

B. "essential parts" means all integral and body parts of a vehicle of a type required to be registered by the provisions of the Motor Vehicle Code, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation;

C. "established place of business", for a dealer or auto recycler, means a place:

(1) devoted exclusively to the business for which the dealer or auto recycler is licensed and related business;

(2) identified by a prominently displayed sign giving the dealer's or auto recycler's trade name used by the business;

(3) of sufficient size or space to permit the display of one or more vehicles or to permit the parking or storing of vehicles to be dismantled or wrecked for recycling;

(4) on which there is located an enclosed building on a permanent foundation, which building meets the building requirements of the community and is large enough to accommodate the office or offices of the dealer or auto recycler and large enough to provide a safe place to keep the books and records of the dealer or auto recycler;

(5) where the principal portion of the business of the dealer or auto recycler is conducted and where the books and records of the business are kept and maintained; and

(6) where vehicle sales are of new vehicles only, such as a department store or a franchisee of a department store, as long as the department store or franchisee keeps the books and records of its vehicle business in a general office location at its place of business; as used in this paragraph, "department store" means a business that offers a variety of merchandise other than vehicles, and sales of the merchandise other than vehicles constitute at least eighty percent of the gross sales of the business; and

D. "explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in such proportions, quantities or packing that an ignition by fire, friction, concussion, percussion or detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb."

## **Chapter 319 Section 5 Laws 2007**

Section 5. Section 66-1-4.7 NMSA 1978 (being Laws 1990, Chapter 120, Section 8) is amended to read:

"66-1-4.7. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "gross combination vehicle weight" means the total of the gross vehicle weights of all units of a combination;

B. "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination; however, in the absence of a value specified by the manufacturer, the 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 the load on those units;

C. "gross factory shipping weight" means the weight indicated on the manufacturer's certificate of origin;

D. "gross vehicle weight" means the weight of a loaded vehicle; and

E. "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle."

## **Chapter 319 Section 6 Laws 2007**

Section 6. Section 66-1-4.11 NMSA 1978 (being Laws 1990, Chapter 120, Section 12, as amended) is amended to read:

"66-1-4.11. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "mail" means any item properly addressed with postage prepaid delivered by the United States postal service or any other public or private enterprise primarily engaged in the transport and delivery of letters, packages and other parcels;

B. "manufactured home" means a movable or portable housing structure that exceeds either a width of eight feet or a length of forty feet, constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy;

C. "manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered under the Motor Vehicle Code;

D. "manufacturer's certificate of origin" means a certification, on a form supplied by or approved by the department, signed by the manufacturer that the new vehicle or boat described in the certificate has been transferred to the New Mexico dealer or distributor named in the certificate or to a dealer duly licensed or recognized as such in another state, territory or possession of the United States and that such transfer is the first transfer of the vehicle or boat in ordinary trade and commerce;

E. "moped" means a two-wheeled or three-wheeled vehicle with an automatic transmission and a motor having a piston displacement of less than fifty cubic centimeters, that is capable of propelling the vehicle at a maximum speed of not more than thirty miles an hour on level ground, at sea level;

F. "motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, excluding a tractor;

G. "motor home" means a camping body built on a self-propelled motor vehicle chassis so designed that seating for driver and passengers is within the body itself;

H. "motor vehicle" means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated upon rails; but for the purposes of the Mandatory Financial Responsibility Act, "motor vehicle" does not include "special mobile equipment"; and

I. "motor vehicle insurance policy" means a policy of vehicle insurance that covers self-propelled vehicles of a kind required to be registered pursuant to New Mexico law for use on the public streets and highways. A "motor vehicle insurance policy":

(1) shall include:

(a) motor vehicle bodily injury and property damage liability coverages in compliance with the Mandatory Financial Responsibility Act; and

(b) uninsured motorist coverage, subject to the provisions of Section 66-5-301 NMSA 1978 permitting the insured to reject such coverage; and

(2) may include:

(a) physical damage coverage;

(b) medical payments coverage; and

(c) other coverages that the insured and the insurer agree to include within the policy."

## **Chapter 319 Section 7 Laws 2007**

Section 7. 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. "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;

B. "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;

C. "nonrepairable vehicle certificate" means a vehicle ownership document conspicuously labeled "NONREPAIRABLE" issued to the owner of the nonrepairable vehicle;

D. "nonresident" means every person who is not a resident of this state;

E. "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

F. "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 319 Section 8 Laws 2007**

Section 8. Section 66-1-4.15 NMSA 1978 (being Laws 1990, Chapter 120, Section 16, as amended) is amended to read:

"66-1-4.15. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "railroad" means a carrier of persons or property upon cars operated upon stationary rails;

B. "railroad sign or signal" means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train;

C. "railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails;

D. "reconstructed vehicle" means any vehicle assembled or constructed largely by means of essential parts, new or used, derived from other vehicles or which, if

originally otherwise assembled or constructed, has been materially altered by the removal of essential parts, new or used;

E. "recreational travel trailer" means a camping body designed to be drawn by another vehicle;

F. "recreational vehicle" means a vehicle with a camping body that has its own motive power, is affixed to or is drawn by another vehicle and includes motor homes, travel trailers and truck campers;

G. "registration" means registration certificates and registration plates issued under the laws of New Mexico pertaining to the registration of vehicles;

H. "registration number" means the number assigned upon registration by the division to the owner of a vehicle or motor vehicle required to be registered by the Motor Vehicle Code;

I. "registration plate" means the plate, marker, sticker or tag assigned by the division for the identification of the registered vehicle;

J. "residence district" means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business;

K. "revocation" means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and shall not be renewed or restored, except that an application for a new license may be presented to and acted upon by the division after the expiration of at least one year after date of revocation;

L. "right of way" means the privilege of the immediate use of the roadway;

M. "road tractor" means every motor vehicle designed and used primarily for drawing other vehicles and constructed not to carry a significant load on the road tractor, either independently or as any part of the weight of a vehicle or load drawn; and

N. "roadway" means that portion of a street or highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder; when a highway includes two or more separate roadways, the term "roadway" refers to each roadway separately but not to all of the roadways collectively."

## **Chapter 319 Section 9 Laws 2007**

Section 9. Section 66-1-4.17 NMSA 1978 (being Laws 1990, Chapter 120, Section 18, as amended by Laws 2003, Chapter 141, Section 1 and by Laws 2003, Chapter 164, Section 3) is amended to read:

"66-1-4.17. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "tank vehicle" means a motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis and that has either a gross vehicle weight rating of twenty-six thousand one or more pounds or is used in the transportation of hazardous materials requiring placarding of the vehicle under applicable law;

B. "taxicab" means a motor vehicle used for hire in the transportation of persons, having a normal seating capacity of not more than seven persons;

C. "temporary off-site location" means a location other than a dealer's established or additional place of business that is used exclusively for the display of vehicles or vessels for sale or resale and for related business;

D. "through highway" means every highway or portion of a highway at the entrance to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing it when stop signs are erected as provided in the Motor Vehicle Code;

E. "title service company" means a person, other than the department, an agent of the department, a licensed dealer or the motor transportation division of the department of public safety, who for consideration issues temporary registration plates or prepares and submits to the department on behalf of others applications for registration of or title to motor vehicles;

F. "traffic" means pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together using any highway for purposes of travel;

G. "traffic-control signal" means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed;

H. "traffic safety bureau" means the traffic safety bureau of the department of transportation;

I. "trailer" means any vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that no significant part of its weight rests upon the towing vehicle;

J. "transaction" means all operations necessary at one time with respect to one identification card, one driver, one vessel or one vehicle;

K. "transportation inspector" means an employee of the motor transportation division of the department of public safety who has been certified by the director of the division to enter upon and perform inspections of motor carriers' vehicles in operation;

L. "transporter of manufactured homes" means a commercial motor vehicle operation engaged in the business of transporting manufactured homes from the manufacturer's location to the first dealer's location. A "transporter of manufactured homes" may or may not be associated with or affiliated with a particular manufacturer or dealer;

M. "travel trailer" means a trailer with a camping body and includes recreational travel trailers and camping trailers;

N. "trial court" means the magistrate, municipal or district court that tries the case concerning an alleged violation of a provision of the Motor Vehicle Code;

O. "tribal court" means a court created by a tribe or a court of Indian offense created by the United States secretary of the interior;

P. "tribe" means an Indian nation, tribe or pueblo located wholly or partially in New Mexico;

Q. "truck" means every motor vehicle designed, used or maintained primarily for the transportation of property;

R. "truck camper" means a camping body designed to be loaded onto, or affixed to, the bed or chassis of a truck. A camping body, when combined with a truck or truck cab and chassis, even though not attached permanently, becomes a part of the motor vehicle, and together they are a recreational unit to be known as a "truck camper"; there are three general types of truck campers:

(1) "slide-in camper" means a camping body designed to be loaded onto and unloaded from the bed of a pickup truck;

(2) "chassis-mount camper" means a camping body designed to be affixed to a truck cab and chassis; and

(3) "pickup cover" or "camper shell" means a camping body designed to provide an all-weather protective enclosure over the bed of a pickup truck and to be affixed to the pickup truck; and

S. "truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and constructed to carry a part of the weight of the vehicle and load drawn."

## **Chapter 319 Section 10 Laws 2007**

Section 10. Section 66-2-3 NMSA 1978 (being Laws 1978, Chapter 35, Section 7, as amended) is amended to read:

"66-2-3. POWERS AND DUTIES OF DEPARTMENT.--

A. The department is vested with the power and is charged with the duty of observing, administering and enforcing the Motor Vehicle Code in cooperation with state and local agencies as provided by law and the provisions of law now existing or hereinafter enacted.

B. The secretary may seek an injunction in any district court to require compliance with or prohibit violation of the Motor Vehicle Code.

C. A person authorized to carry out the duties imposed on the department by law is authorized to copy a record or document, including a birth certificate, necessary to establish that an applicant has met the requirements for issuance of a document issued by the department."

### **Chapter 319 Section 11 Laws 2007**

Section 11. Section 66-2-15 NMSA 1978 (being Laws 1978, Chapter 35, Section 19, as amended) is amended to read:

"66-2-15. AGENTS OR DEPARTMENT EMPLOYEES TO REMIT MONEY RECEIVED -- BONDS FOR AGENTS OR DEPARTMENT EMPLOYEES.--Agents or department employees shall remit all money received by them in the carrying out of the duty imposed upon them by the Motor Vehicle Code, including administrative fees. The agents' reports are subject to audit and acceptance by the department. Before undertaking a duty on behalf of the director, the agents shall execute a surety bond, in an amount required by the director and in the form required of public officials by law. The department shall designate those employees required to be covered by a bond."

### **Chapter 319 Section 12 Laws 2007**

Section 12. Section 66-2-16 NMSA 1978 (being Laws 1978, Chapter 35, Section 20, as amended) is amended to read:

"66-2-16. ADMINISTRATIVE FEES -- COLLECTION -- REMITTANCE -- PAYMENT -- OPTIONAL FEES -- APPROPRIATION.--

A. The department and its agents shall collect an administrative fee to defray the department's costs of operation and of rendering service to the public. The fee shall be two dollars (\$2.00) for each transaction performed by an agent or the department and shall be collected in addition to all other fees and taxes imposed.

B. All sums collected by an agent or the department as administrative fees shall be remitted as provided in Section 66-2-15 NMSA 1978.

C. Administrative fees remitted by department employees shall be deposited by the state treasurer into the motor vehicle suspense fund and distributed in accordance with Section 66-6-23 NMSA 1978.

D. Notwithstanding the provisions of Subsections A through C of this section, a class A county with a population exceeding three hundred thousand or municipality with a population exceeding three hundred thousand within a class A county designated as an agent pursuant to Section 66-2-14.1 NMSA 1978 shall not be paid the fee provided in Subparagraph (b) of Paragraph (1) of Subsection A of Section 66-6-23 NMSA 1978.

E. The secretary is authorized to establish by rule fees to cover the expense of providing additional services for the convenience of the motoring public. Any service established for which a fee is adopted pursuant to this subsection shall be optional, with the fee not being charged to any person not taking advantage of the service. Amounts collected pursuant to this subsection are appropriated to the department for the purpose of defraying the expense of providing the service.

F. The secretary shall review, at the end of each fiscal year, the aggregate total of motor vehicle transactions performed by each municipality, county or fee agent operating a motor vehicle field office, and identify each office exceeding ten thousand aggregate transactions per year."

## **Chapter 319 Section 13 Laws 2007**

Section 13. Section 66-3-1 NMSA 1978 (being Laws 1978, Chapter 35, Section 21, as amended) is amended to read:

"66-3-1. VEHICLES SUBJECT TO REGISTRATION -- EXCEPTIONS.--

A. Every motor vehicle, manufactured home, trailer, semitrailer and pole trailer when driven or moved upon a highway and every off-highway motor vehicle is subject to the registration and certificate of title provisions of the Motor Vehicle Code except:

(1) any such vehicle driven or moved upon a highway in conformance with the provisions of the Motor Vehicle Code relating to manufacturers, dealers, lien-holders or nonresidents;

(2) any such vehicle that is driven or moved upon a highway only for the purpose of crossing the highway from one property to another;

(3) an implement of husbandry that is only incidentally operated or moved upon a highway;

(4) special mobile equipment;

(5) a vehicle that is propelled exclusively by electric power obtained from overhead trolley wires though not operated upon rails;

(6) a freight trailer if it is:

(a) properly registered in another state;

(b) identified by a proper base registration plate that is properly displayed; and

(c) identified by other registration documents that are in the possession of the operator and exhibited at the request of a police officer;

(7) a freight trailer or utility trailer owned and used by:

(a) a nonresident solely for the transportation of farm products purchased by the nonresident from growers or producers of the farm products and transported in the trailer out of the state;

(b) a farmer or a rancher who transports to market only the produce, animals or fowl produced by that farmer or rancher or who transports back to the farm or ranch supplies for use thereon; or

(c) a person who transports animals to and from fairs, rodeos or other places, except racetracks, where the animals are exhibited or otherwise take part in performances, in trailers drawn by a motor vehicle or truck of less than ten thousand pounds gross vehicle weight rating bearing a proper registration plate, but in no case shall the owner of an unregistered trailer described in this paragraph perform such uses for hire;

(8) a moped;

(9) an electric personal assistive mobility device;

(10) a vehicle moved on a highway by a towing service as defined in Section 59A-50-2 NMSA 1978; and

(11) an off-highway motor vehicle exempted pursuant to Section 66-3-1005 NMSA 1978.

B. A certificate of title need not be obtained for any vehicle of a type subject to registration owned by the government of the United States."

## **Chapter 319 Section 14 Laws 2007**

Section 14. Section 66-3-2 NMSA 1978 (being Laws 1978, Chapter 35, Section 22, as amended) is amended to read:

"66-3-2. REGISTRATION -- TRAILERS, SEMITRAILERS, POLE TRAILERS AND FREIGHT TRAILERS.--

A. The motor transportation division of the department of public safety and the motor vehicle division of the taxation and revenue department, according to their appropriate jurisdictions, shall grant permanent registration to freight trailers subject to registration and may grant permanent registration to utility trailers not used in commerce whose gross vehicle weight is less than six thousand one pounds upon application and payment of the fee required by Section 66-6-3 NMSA 1978. The registration shall expire, however, upon the transfer of title or interest in the vehicle, at which time the vehicle shall be reregistered.

B. In registering trailers, semitrailers and pole trailers, the motor transportation division and the motor vehicle division may require such information and documents and may make such tests and investigations as they deem necessary and practicable to determine or to verify the empty weights and gross vehicle weights and to ensure that the vehicles may be safely and legally operated upon the highways of this state."

### **Chapter 319 Section 15 Laws 2007**

Section 15. Section 66-3-2.10 NMSA 1978 (being Laws 1972, Chapter 7, Section 42) is amended to read:

"66-3-2.10. PROPORTIONAL REGISTRATION NOT EXCLUSIVE.--Nothing contained in the Motor Transportation Act relating to the proportional registration of fleet vehicles shall be construed as requiring any vehicle to be proportionally registered if it is otherwise registered in this state for the operation in which it is engaged, including, but not by way of limitation, registration, temporary registration permit or trip permit."

### **Chapter 319 Section 16 Laws 2007**

Section 16. Section 66-3-4 NMSA 1978 (being Laws 1978, Chapter 35, Section 24, as amended) is amended to read:

"66-3-4. APPLICATION FOR REGISTRATION AND CERTIFICATE OF TITLE -- NONREPAIRABLE VEHICLE CERTIFICATE.--

A. Every owner of a vehicle of a type required to be registered in this state shall make application to the division for the registration and issuance of a certificate of title for the vehicle. Applications shall be upon the appropriate forms furnished by the division and shall bear the signature of the owner written with pen and ink. All applications presented to the division shall contain:

(1) for a vehicle other than a recreational vehicle, the name, bona fide New Mexico residence address and mail address of the owner or, if the owner is a firm, association or corporation, the name, bona fide New Mexico business address and mail address of the firm, association or corporation and for a recreational vehicle, the name, bona fide residence address and mail address of the owner and proof of delivery in New Mexico;

(2) a description of the vehicle including, insofar as the hereinafter specified data may exist with respect to a given vehicle, the make, model, type of body, number of cylinders, type of fuel used, serial number of the vehicle, odometer reading, engine or other identification number provided by the manufacturer of the vehicle, whether new or used and, if a vehicle not previously registered, date of sale by the manufacturer or dealer to the person intending to operate the vehicle. In the event a vehicle is designed, constructed, converted or rebuilt for the transportation of property, the application shall include a statement of its rated capacity as established by the manufacturer of the chassis or the complete vehicle;

(3) a statement of the applicant's title and of all liens or encumbrances upon the vehicle and the names and addresses of all persons having any interest therein and the nature of every such interest and the name and address of the person to whom the certificate of title shall be delivered by the division;

(4) if the vehicle required to be registered is a house trailer, as defined in the Motor Vehicle Code, a certificate from the treasurer or assessor of the county in which the house trailer is located showing that either:

(a) all property taxes due or to become due on the house trailer for the current tax year or any past tax years have been paid; or

(b) no liability for property taxes on the house trailer exists for the current year or any past tax years; and

(5) further information as may reasonably be required by the division to enable it to determine whether the vehicle is lawfully entitled to registration and the owner entitled to a certificate of title.

B. Any owner of a vehicle subject to registration that has never been registered in this state and that has been registered in another state, except manufactured homes, shall have such vehicle examined and inspected for its identification number or engine number by the division or an officer or designated agent thereof incident to securing registration, reregistration or a certificate of title from the division.

C. When such application refers to a vehicle not previously registered and the vehicle is purchased from a dealer licensed in this state or a dealer licensed or recognized as such in any other state, territory or possession of the United States, the application shall be accompanied by a manufacturer's certificate of origin duly assigned

by the dealer to the purchaser. In the event that a vehicle not previously registered is sold by the manufacturer to a dealer in a state not requiring a manufacturer's certificate of origin and in the event that the vehicle is subsequently purchased by a dealer or any person in this state, the application for title shall be accompanied by the evidence of title accepted by the state in which the vehicle was sold by the manufacturer to a dealer in that state together with evidence of subsequent transfers.

D. Prior to the sale or disposal of a nonrepairable vehicle, the owner, owner's agent or salvage pool shall obtain a properly endorsed nonrepairable vehicle certificate from the department and deliver it to the purchaser within twenty days after payment in full for the nonrepairable vehicle and shall also comply with Section

66-3-10.1 NMSA 1978. The department shall accept the endorsed nonrepairable vehicle certificate in lieu of the certificate of ownership or other evidence of ownership when accompanied by an application and other documents and fees as may be required by the department. A vehicle for which a nonrepairable vehicle certificate has been issued shall not be titled or registered for use on the highways of this state.

E. If an insurance company makes a total loss settlement on a nonrepairable vehicle and takes possession of that vehicle, either itself or through an agent or salvage pool, the insurance company or an authorized agent of the insurance company shall:

(1) stamp the face of the title or manufacturer's certificate of origin with the word "NONREPAIRABLE", in letters no less than one-half inch high, at an angle of approximately forty-five degrees to the text of the title or manufacturer's certificate of origin; and

(2) within twenty days after receipt of title by the insurer, free and clear of all liens, submit a copy of the branded title or manufacturer's certificate of title to the department together with documents explaining the reason for branding, and shall forward a properly endorsed certificate of title or manufacturer's certificate of origin or other evidence of ownership acceptable to the department together with the proper fee to the department. The department, upon receipt of the title or manufacturer's certificate of origin or other evidence of ownership, shall issue a nonrepairable vehicle certificate for the vehicle.

F. If an owner of a nonrepairable vehicle elects to retain possession of the vehicle, the insurance company shall notify the department of the retention on a form prescribed by the department. The insurance company shall also notify the insured or owner of the insured's or owner's responsibility to comply with this section. The owner shall, within twenty days from the date of settlement of the loss, forward a properly endorsed certificate of title or manufacturer's certificate of origin or other evidence of ownership acceptable to the department together with the proper fee to the department. The department, upon receipt of the title or manufacturer's certificate of origin or other evidence of ownership, shall issue a nonrepairable vehicle certificate for the vehicle.

G. If a nonrepairable vehicle is not the subject of an insurance settlement, the owner shall, within twenty days from the date of the loss, forward a properly endorsed certificate of title or manufacturer's certificate of origin or other evidence of ownership acceptable to the department together with the proper fee to the department. The department, upon receipt of the title or manufacturer's certificate of origin or other evidence of ownership, shall issue a nonrepairable vehicle certificate for the vehicle.

H. The department shall not issue a new registration card and certificate of ownership pursuant to Subsection A, B or C of this section on a vehicle that has been issued a nonrepairable vehicle certificate pursuant to Subsections E, F and G of this section."

## **Chapter 319 Section 17 Laws 2007**

Section 17. Section 66-3-6 NMSA 1978 (being Laws 1978, Chapter 35, Section 26, as amended) is amended to read:

"66-3-6. TEMPORARY REGISTRATION PERMITS, DEMONSTRATION PERMITS AND TRANSPORT PERMITS.--

A. The department may issue a temporary registration permit to individuals to operate a vehicle pending action by the department upon an application for registration and certificate of title or renewal of registration when the application is accompanied by the proper fees and taxes. The temporary registration permit shall be valid for a period not to exceed thirty business days from the day it is validated by the department. Temporary registration permits shall not be extended nor another issued except for good cause shown.

B. The department may issue a demonstration permit to individuals and financing institutions to operate a vehicle for the purpose of demonstrating the vehicle for resale. The demonstration permit shall be valid for a period not to exceed five business days from the day it is validated by the department. Demonstration permits shall not be extended nor another issued except for good cause shown.

C. The department may issue a transport permit to a manufacturer of vehicles or transporter of manufactured homes for the purpose of demonstrating or transporting the vehicle to a dealer's location. The transport permit shall be valid for a period not to exceed ten business days, shall state the number of days for which the transport permit is valid and shall be validated by the signature of the manufacturer or transporter. Transport permits shall not be extended nor another issued except for good cause shown.

D. The department shall issue transport permits to dealers licensed pursuant to Section 66-4-1 NMSA 1978. Transport permits shall be used only on vehicles held in the inventory of the dealer to whom the transport permits are issued. The transport permits shall be used only for importing vehicles into this state or for transporting

vehicles between dealers intrastate. Use of transport permits pursuant to this section shall be deemed compliance with the requirements of Section 66-3-4 NMSA 1978. The transport permits shall be valid for not more than five business days from the date of validation. Transport permits shall:

- (1) name the dealer to whom the transport permits are issued;
- (2) name the authorized driver of the vehicle;
- (3) show the point of origin and termination of the trip covered by the transport permit; and
- (4) be signed and dated by the dealer who executed the transport permit.

E. The department shall issue temporary registration permits to dealers licensed pursuant to Section 66-4-1 NMSA 1978. Temporary registration permits shall be used only on vehicles sold at retail by the dealer to whom the temporary registration permits are issued and shall not be extended nor another issued for the same vehicle except for good cause shown. Use of the temporary registration permits pursuant to this section shall be deemed compliance with the provisions of Section 66-3-4 NMSA 1978. The temporary registration permits shall be valid for not more than thirty days from the date of validation. Temporary registration permits shall:

- (1) name the dealer to whom the temporary registration permits are issued;
- (2) name the person to whom the vehicle has been sold; and
- (3) be signed and dated by the dealer who executed the temporary registration permit.

F. The department shall issue demonstration permits to dealers licensed pursuant to Section 66-4-1 NMSA 1978. Demonstration permits shall be used only on vehicles included in the inventory of the dealer to whom the demonstration permits are issued. The demonstration permits shall be used to allow the operation of vehicles for the limited purposes of testing, demonstrating or preparing a vehicle for sale or lease. Demonstration permits may not be used on work or service vehicles, as that term is defined in Section 66-3-401 NMSA 1978, that are owned, used or held in inventory by a dealer. Use of the demonstration permits pursuant to this section shall be deemed compliance with the provisions of Section 66-3-4 NMSA 1978. A demonstration permit, after being affixed to a specific vehicle, shall be valid for as long as the vehicle is held in the dealer's inventory. A dealer who uses demonstration permits is required to maintain a list showing the date on which the dealer assigned the permit to a vehicle and the name and a description of the vehicle, including its make, model, model year and vehicle identification number. A dealer shall maintain the list for three years from the end of the year in which the dealer issued the permit and must make it available to the

department or its agents and to law enforcement officers during reasonable business hours. When a vehicle is sold, the dealer shall keep demonstration permits with other records of the sale. A demonstration permit shall:

- (1) name the dealer to whom the demonstration permit is issued; and
- (2) display a unique identification number assigned by the department.

G. The department may authorize in writing dealers licensed pursuant to Section 66-4-1 NMSA 1978 to print and use at their own cost demonstration permits in conformance with the provisions of Subsection F of this section, subject to reasonable requirements established by the department.

H. The department may authorize agents of the division, in writing, to print and issue demonstration permits to be used by dealers in conformance with the provisions of Subsection F of this section, subject to reasonable requirements established by the department. Agents who issue demonstration permits shall maintain a list showing the date on which the permit was issued and the name of the dealer to whom it was issued. Agents shall maintain the list for three years from the end of the year in which they issued the permit and shall make it available to the department or its agents, and to law enforcement officers, during reasonable business hours. A demonstration permit shall:

- (1) name the dealer to whom the permit is issued; and
- (2) display a unique identification number assigned by the department.

I. The department shall prescribe the size, shape and content of all temporary registration permits, demonstration permits and transport permits authorized by this section. A temporary registration permit, demonstration permit or transport permit is not valid until affixed to the vehicle for which it is validated in a manner prescribed by the department.

J. For the misuse of a temporary registration permit, demonstration permit or transport permit authorized by this section by an individual, financing institution, manufacturer of vehicles, transporter of manufactured homes, dealer or auto recycler, the secretary may revoke or suspend the use of that type of permit after a hearing as provided in Section 66-2-17 NMSA 1978.

K. The department shall collect the administrative fee imposed in Section 66-2-16 NMSA 1978 in addition to the actual cost of the temporary registration permit, demonstration permit or transport permit for each permit issued by the department pursuant to this section to individuals, financial institutions, manufacturers, transporters or auto recyclers.

L. The department may issue temporary registration permits, demonstration permits and transport permits to dealers in units of not less than one hundred at a fee

established by the department to cover the actual cost of the permits. An administrative fee shall not be charged by the department when permits are issued by the department pursuant to the provisions of this subsection.

M. The fees authorized by Subsections K and L of this section to cover the actual cost of the permits are appropriated to the department to defray the costs of administering the permits program. The department shall remit the administrative fee revenues of this section to the motor vehicle suspense fund to be distributed in accordance with Section 66-6-23 NMSA 1978."

## **Chapter 319 Section 18 Laws 2007**

Section 18. Section 66-3-16 NMSA 1978 (being Laws 1978, Chapter 35, Section 36, as amended) is amended to read:

"66-3-16. DISTINCTIVE REGISTRATION PLATES -- PERSONS WITH SIGNIFICANT MOBILITY LIMITATION--PARKING PLACARD.--

A. The division shall issue distinctive registration plates for use on motor vehicles and motorcycles owned by a person with a significant mobility limitation who requests a distinctive registration plate and who proves satisfactorily to the division that the person meets the standard provided in Subsection I of this section. No fee in addition to the regular registration fee, if any, applicable to the motor vehicle or motorcycle shall be collected for issuance of distinctive registration plates pursuant to this section.

B. No person shall falsely claim to have a significant mobility limitation so as to be eligible to be issued a distinctive registration plate or a parking placard pursuant to this section when the person does not in fact have a significant mobility limitation. Upon notice and opportunity to be heard, the division may revoke and demand return of any placard when:

- (1) it was issued in error or with false information;
- (2) the person receiving the placard is no longer eligible; or
- (3) the placard is being used by ineligible persons.

C. Upon written application to the division accompanied by a medical statement by a licensed physician attesting to the permanent significant mobility limitation, a resident of the state who has a significant mobility limitation, as provided in this section, may apply for and be issued no more than two parking placards for display upon a motor vehicle registered to the person or motor vehicle owned by another person who is transporting the person with a significant mobility limitation. The physician shall provide the division all information and records necessary to issue a permanent parking placard. Once approved for use of a permanent parking placard, a person with a significant mobility limitation shall not be required to furnish further medical information.

D. A parking placard issued pursuant to this section shall expire on the same date the person's license or identification card issued pursuant to Section 66-5-401 NMSA 1978 expires.

E. The division shall issue two-sided hanger-style parking placards with the following characteristics:

(1) a picture of the international symbol of access;

(2) a hologram to make duplication difficult;

(3) an imprinted expiration date; and

(4) a full-face photograph of the holder on the inside of the placard covered by a flap.

F. The division shall consult with the governor's commission on disability for continued issuance and format of the placard.

G. The division may issue an identification card containing a full-face photograph of the holder of the registration plate or parking placard and the number of the registration plate or parking placard issued to that person.

H. Upon written application to the division accompanied by a medical statement from a licensed physician attesting to a temporary significant mobility limitation, a person may be issued a temporary placard for no more than one year. The physician shall provide the division all information and records necessary to issue a temporary placard.

I. Registration plates or parking placards issued to a person with a significant mobility limitation by another state or foreign jurisdiction shall be honored until the motor vehicle or motorcycle is registered or the parking placard holder establishes residency in this state.

J. A person with a significant mobility limitation means a person who:

(1) cannot walk one hundred feet without stopping to rest;

(2) cannot walk without the use of a brace, cane or crutch or without assistance from another person, a prosthetic device, a wheelchair or other assistive device;

(3) is restricted by lung disease to such an extent that the person's forced respiratory volume, when exhaling for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than sixty millimeters on room air at rest;

(4) uses portable oxygen;

(5) has a severe cardiac condition; or

(6) is so severely limited in the ability to walk due to an arthritic, neurologic or orthopedic condition that the person cannot ascend or descend more than ten stair steps."

## **Chapter 319 Section 19 Laws 2007**

Section 19. Section 66-3-16.1 NMSA 1978 (being Laws 1995, Chapter 129, Section 2, as amended) is amended to read:

"66-3-16.1. PROHIBITED ACTS--PENALTIES.--

A. Any person who provides false information in order to acquire, or who assists an unqualified person to acquire, a special registration plate or parking placard as provided in Section 66-3-16 NMSA 1978 is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

B. Any person, other than the person to whom a special registration plate or a parking placard was issued, who in the absence of the holder of the plate or placard, parks in a designated accessible parking space for persons with significant mobility limitation while displaying the plate or placard, is guilty of a misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

C. A special registration plate or parking placard displayed on a vehicle parked in a designated accessible parking space for persons with significant mobility limitation in the absence of the holder of that plate or placard is subject to immediate seizure by a law enforcement official and if seized shall be delivered to the division within seventy-two hours. Failure to surrender the parking placard on demand of a law enforcement officer is a petty misdemeanor and punishable by a fine not to exceed one hundred dollars (\$100)."

## **Chapter 319 Section 20 Laws 2007**

Section 20. Section 66-3-18 NMSA 1978 (being Laws 1978, Chapter 35, Section 38, as amended) is amended to read:

"66-3-18. DISPLAY OF REGISTRATION PLATES AND TEMPORARY REGISTRATION PERMITS--DISPLAYS PROHIBITED AND ALLOWED.--

A. The registration plate shall be attached to the rear of the vehicle for which it is issued; however, the registration plate shall be attached to the front of a road tractor or truck tractor. The plate shall be securely fastened at all times in a fixed horizontal

position at a height of not less than twelve inches from the ground, measuring from the bottom of the plate. It shall be in a place and position so as to be clearly visible, and it shall be maintained free from foreign material and in a condition to be clearly legible.

B. A demonstration or temporary registration permit shall be firmly affixed to the inside left rear window of the vehicle to which it is issued, unless such display presents a safety hazard or the demonstration or temporary registration permit is not visible or readable from that position, in which case, the demonstration or temporary registration permit shall be displayed in such a manner that it is clearly visible from the rear or left side of the vehicle.

C. No vehicle while being operated on the highways of this state shall have displayed either on the front or the rear of the vehicle any registration plate, including validating sticker, other than one issued or validated for the current registration period by the department or any other licensing authority having jurisdiction over the vehicle. No expired registration plate or validating sticker shall be displayed on the vehicle other than an expired special registration plate, which may be exhibited on the front of the vehicle.

D. Nothing contained in this section shall be construed as prohibiting the use of a promotional or advertising plate on the front of the vehicle."

## **Chapter 319 Section 21 Laws 2007**

Section 21. Section 66-3-20.1 NMSA 1978 (being Laws 1988, Chapter 94, Section 1, as amended) is amended to read:

"66-3-20.1. PROVIDING FOR EXTENDED REGISTRATION PERIODS FOR CERTAIN MOTOR VEHICLES--CREDIT FOR UNEXPIRED PORTION OF FEE.--

A. All vehicles, motorcycles or trucks with a declared gross weight of twenty-six thousand pounds or less may be registered for a period of two years; provided the

two-year registration period shall begin on the first day of any month and expire on the last day of any month.

B. The fee for a two-year registration shall be twice the fee for a one-year registration.

C. If the owner of a vehicle that is registered for two years sells, transfers or assigns title to or interest in the vehicle within the first year of registration and applies to have the registration number assigned to another vehicle pursuant to Section 66-3-101 NMSA 1978, upon assignment, the person may apply for a refund of one-half of the two-year registration fee."

## **Chapter 319 Section 22 Laws 2007**

Section 22. Section 66-3-21 NMSA 1978 (being Laws 1978, Chapter 35, Section 41) is amended to read:

"66-3-21. VEHICLE EXCEEDING DECLARED GROSS WEIGHT.--

A. Except as otherwise provided by law, a vehicle or combination shall not be operated upon the public highways of this state when the gross vehicle weight or gross combination vehicle weight exceeds the declared gross weight. Any person violating the provisions of this section shall be:

(1) assessed a penalty for the lapsed portion of the registration period in an amount equal to the difference between the fee for the declared gross weight and the fee for the gross vehicle weight or gross combination vehicle weight at which the vehicle or combination was weighed; and

(2) required to register the vehicle or combination at the higher declared gross weight in accordance with the weight at the time of the violation for the remainder of the registration period and to pay that fee.

B. Such registration shall not be construed to authorize the movement of loads in violation of the state's size and weight laws."

## **Chapter 319 Section 23 Laws 2007**

Section 23. Section 66-3-24 NMSA 1978 (being Laws 1978, Chapter 35, Section 44, as amended) is amended to read:

"66-3-24. LOST OR DAMAGED CERTIFICATES, REGISTRATION EVIDENCE OR PLATES.--

A. In the event any registration evidence or registration plate is lost, mutilated or becomes illegible, the owner or legal representative or successor in interest of the owner of the vehicle for which the registration evidence or registration plate was issued as shown by the records of the division shall immediately make application for and may obtain a duplicate or a new registration under a new registration number as determined to be the most advisable by the division upon the applicant furnishing information satisfactory to the division.

B. In the event any certificate of title is lost, mutilated or becomes illegible, the owner or legal representative or successor in interest of the owner of the boat required to be titled under the provisions of the Boat Act or the vehicle for which the certificate of title was issued as shown by the records of the division shall immediately make application for and may obtain a duplicate upon the applicant furnishing information satisfactory to the division. In the event a lien or encumbrance is filed of record with the division, the division shall require the application for the duplicate certificate of title to be

signed by the holder of the lien or encumbrance. Upon issuance of any duplicate certificate of title, the previous certificate last issued is void.

C. In the absence of the regularly required supporting evidence of ownership upon application for certificate of title, registration or transfer of a boat required to be titled under the provisions of the Boat Act or a vehicle, the division may accept an undertaking or surety bond, in an amount double the value of the boat or vehicle, which shall be conditioned to protect the department and all officers and employees of the department and any subsequent purchaser of the boat or vehicle, any person holding or acquiring a lien or security interest on the boat or vehicle or the successor in interest of the purchaser or person against any loss or damage on account of any defect in or undisclosed claim upon the right, title and interest of the applicant or other person in and to the boat or vehicle. The bond shall run to the true owner or the lienholder. The bond shall expire three years after the date it became effective."

## **Chapter 319 Section 24 Laws 2007**

Section 24. Section 66-3-101 NMSA 1978 (being Laws 1978, Chapter 35, Section 48, as amended) is amended to read:

"66-3-101. TRANSFER BY OWNER--RECORDATION OF MILEAGE OF VEHICLE--USE OF THE PLATE AND REGISTRATION NUMBER ON ANOTHER VEHICLE.--

A. When the owner of a registered vehicle sells, transfers or assigns the owner's title to or interest in, and delivers the possession of, the vehicle to another, the registration of the vehicle shall expire. The previous owner shall notify the division of the sale or transfer giving the date thereof, the name and address of the new owner and such description of the vehicle as may be required in the appropriate form provided for such purpose by the division. In the case of any transfer, including but not limited to a transfer resulting from a sale, lease, gift or auction of any vehicle, the person making the transfer shall sign and shall record on the document evidencing the transfer of the vehicle the actual mileage of the vehicle as indicated by the vehicle's odometer at the time of the transfer.

B. When the owner of a registered vehicle sells, transfers or assigns title to or interest in the vehicle, the owner shall remove the registration plates from the vehicle, except as provided in Subsection C of this section, and either forward the registration plates to the division or its authorized agent to be destroyed or apply to have the plate and the registration number assigned to another vehicle of the same class. The division may assign the plate and registration number to the newly acquired vehicle of the same class only upon payment of the registration fee, if applicable, and only if the application is made in the name of the original registered owner, unless the owner's name has been changed by marriage, divorce or court order.

C. When the owner of a vehicle bearing a current registration plate of a foreign state, territory or country transfers or assigns the owner's title or interest in the vehicle, the foreign registration plate shall be delivered, together with the title to the vehicle and evidence of registration, to the division or its authorized agent at the time application is made for a New Mexico registration plate, except when the assignment or transfer of the title is to a bona fide resident of the foreign state, territory or country in which the vehicle is registered.

D. The registration plate shall not be displayed on the newly acquired vehicle until the registration of the vehicle has been completed and a new registration certificate issued. However, the temporary registration permit issued for the vehicle by the dealer pursuant to the provisions of Section 66-3-6 NMSA 1978 shall be displayed in accordance with Subsection B of Section 66-3-18 NMSA 1978."

## **Chapter 319 Section 25 Laws 2007**

Section 25. Section 66-3-107 NMSA 1978 (being Laws 1978, Chapter 35, Section 54, as amended) is amended to read:

"66-3-107. DUTIES OF SELLER OR TRANSFEROR--ADDITIONAL DUTIES OF DEALERS--APPLICATION FOR REGISTRATION--PENALTY--MILEAGE OF VEHICLE.--

A. Any seller or transferor, including a dealer, of a vehicle required to be registered pursuant to the Motor Vehicle Code shall furnish to the purchaser upon delivery the necessary title properly assigned and shall inform the purchaser that application for registration must be filed with the department within thirty days of the date of sale. When a dealer licensed pursuant to Section 66-4-1 NMSA 1978 allows a vehicle to be purchased over a period of time pursuant to an expressed or implied contract and elects to retain a security interest in the vehicle, the dealer shall collect the necessary registration fees from the purchaser upon delivery of the vehicle and shall, within thirty days, pay all registration fees due on the vehicle to the department and shall give to the new purchaser the new registration certificate in the purchaser's name.

B. Every dealer, upon transferring by sale, lease or otherwise any vehicle, whether new or used, of a type subject to registration pursuant to the Motor Vehicle Code shall give written notice of the transfer to the department upon an appropriate form provided by the department.

C. Except as otherwise provided in this section, the dealer shall indicate on the form the actual mileage of the vehicle as indicated by the vehicle's odometer at the time of the transfer.

D. A sale shall be deemed completed and consummated when the purchaser of that vehicle has paid the purchase price or, in lieu thereof, has signed a purchase contract or security agreement and taken physical possession or delivery of that vehicle.

E. Failure to apply for assignment of registration and issuance of a new certificate of title within thirty days from the date of sale, transfer or assignment of a vehicle subjects the owner of the newly acquired vehicle to a penalty of twenty dollars (\$20.00), which shall be collected by the department and shall be in addition to other fees and penalties provided by law."

## **Chapter 319 Section 26 Laws 2007**

Section 26. Section 66-3-118 NMSA 1978 (being Laws 1978, Chapter 35, Section 65) is amended to read:

"66-3-118. MANUFACTURER'S CERTIFICATE OF ORIGIN--TRANSFER OF VEHICLE NOT PREVIOUSLY REGISTERED.--

A. Whenever a manufacturer or the agent or distributor of a manufacturer transfers a vehicle, not previously registered, to a dealer in this state, the manufacturer, agent or distributor at the time of transfer of the vehicle shall deliver to the dealer a manufacturer's certificate of origin. The certificate shall be signed by the manufacturer and shall specify that the vehicle described has been transferred to the dealer named and that the transfer is the first transfer of the vehicle in ordinary trade and commerce.

B. The certificate shall contain a description of the vehicle, number of cylinders, type of body, engine number, serial number or other standard identification number provided by the manufacturer of the vehicle and space for proper reassignment to a New Mexico dealer or to a dealer duly licensed or recognized as such in another state, territory or possession of the United States.

C. Any dealer when transferring a vehicle, not previously registered, to another dealer shall, at the time of transfer, give the transferee the proper manufacturer's certificate of origin fully assigned to the transferee.

D. When a vehicle not previously registered is transferred to a dealer who does not hold a franchise granted by the manufacturer of the vehicle to sell that type or model of vehicle, the transferee must obtain a registration of the vehicle and certificate of title but shall not be required to pay the excise tax imposed by Section 7-14-3 NMSA 1978."

## **Chapter 319 Section 27 Laws 2007**

Section 27. Section 66-3-302 NMSA 1978 (being Laws 1978, Chapter 35, Section 78, as amended) is amended to read:

"66-3-302. CARAVAN FEE.--

A. A person or an employee, agent or representative of that person shall not use the highways of New Mexico for the transportation of any vehicle, regardless of whether the vehicle is registered in another state or whether the vehicle is transported on its own

wheels or on another vehicle or by being drawn or towed behind another, if the vehicle is transported by any person or the agents or employees of that person engaged in the business of transporting vehicles or if the vehicle is being transported for the purpose of delivery to any purchaser of the vehicle on a sale or contract of sale previously made, unless the vehicle carries:

(1) a valid New Mexico registration plate;

(2) a valid dealer's plate issued by the department;

(3) a special permit for the use of the highways of this state for the transportation of the vehicle in the manner in which the vehicle is being transported, which has first been obtained and the fee paid as specified in this section; or

(4) a valid temporary transportation permit issued under Subsection B of Section 66-3-6 NMSA 1978.

B. Special permits for the use of the highways of this state for the transportation of such vehicles shall be issued by the department of public safety upon application on the form prescribed by the department of public safety and upon payment of a fee of ten dollars (\$10.00) for each vehicle transported by use of its own power and a fee of seven dollars (\$7.00) for each vehicle carried in or on another vehicle or towed or drawn by another vehicle and not transported in whole or in part by the use of its own power. A fee imposed pursuant to this section may be referred to as a "caravan fee". Every permit shall show upon its face the registration number assigned to each vehicle, the name and address of the owner, the manner of transportation authorized and a description of the vehicle registered, including the engine number. The permit shall be carried at all times by the person in charge of the vehicle. A suitable tag or placard for each vehicle may be issued by the department of public safety and, if issued, shall be at all times displayed on each vehicle being transported. The permit, tag or placard shall not be used upon or in connection with the transportation of any vehicle other than the one for which the permit, tag or placard is issued.

C. A caravan fee shall not apply to the transportation of vehicles carried on another vehicle for the operation of which a weight distance tax is paid, nor shall the vehicle transported be required to carry a registration plate or temporary transportation permits. The motor transportation and the New Mexico state police divisions of the department of public safety are authorized to impound any vehicle transported in violation of the Motor Transportation Act until a proper permit has been secured and any fine levied has been paid."

## **Chapter 319 Section 28 Laws 2007**

Section 28. Section 66-3-401 NMSA 1978 (being Laws 1978, Chapter 35, Section 80, as amended) is amended to read:

"66-3-401. OPERATION OF VEHICLES UNDER DEALER PLATES.--

A. Any vehicle that is required to be registered pursuant to the Motor Vehicle Code and that is included in the inventory of a dealer may be operated or moved upon the highways for any purpose, provided that the vehicle display in the manner prescribed in Section 66-3-18 NMSA 1978 a unique plate issued to the dealer as provided in Section 66-3-

402 NMSA 1978. This subsection shall not be construed as limiting the use of temporary registration permits issued to dealers pursuant to Section 66-3-6 NMSA 1978. Each dealer plate shall be issued for a specific vehicle in a dealer's inventory. If a dealer wishes to use the plate on a different vehicle, the dealer must reregister that plate to the different vehicle.

B. The provisions of this section do not apply to work or service vehicles used by a dealer. For the purposes of this subsection, "work or service vehicle" includes any vehicle used substantially as a:

- (1) parts or delivery vehicle;
- (2) vehicle used to tow another vehicle;
- (3) courtesy shuttle; or
- (4) vehicle loaned to customers for their convenience.

C. Each vehicle included in a dealer's inventory required to be registered pursuant to the provisions of Subsection A of this section must conform to the registration provisions of the Motor Vehicle Code, but is not required to be titled pursuant to the provisions of that code. When a vehicle is no longer included in a dealer's inventory, and is not sold or leased to an unrelated entity, the dealer must title the vehicle and pay the motor vehicle excise tax that would have been due when the vehicle was first registered by the dealer.

D. In lieu of the use of dealer plates pursuant to this section, a dealer may register and title a vehicle included in a dealer's inventory in the name of the dealer upon payment of the registration fee applicable to that vehicle, but without payment of the motor vehicle excise tax, provided the vehicle is subsequently sold or leased in the ordinary course of business in a transaction subject to the motor vehicle excise tax or the leased vehicle gross receipts tax."

## **Chapter 319 Section 29 Laws 2007**

Section 29. Section 66-3-401.1 NMSA 1978 (being Laws 1998, Chapter 48, Section 9, as amended) is amended to read:

**"66-3-401.1. USE OF VEHICLES WITH DEALER PLATES BY COACHES AND ATHLETIC DIRECTORS.--**

A. Pursuant to Section 66-3-401 NMSA 1978, a dealer may register a vehicle in the name of the dealer for the purpose of providing the use of a vehicle from the inventory of the dealer to a full-time coach or athletic director at any state-supported four-year institution of higher education in New Mexico.

B. A vehicle that a dealer elects to register pursuant to Subsection A of this section is not required to be titled pursuant to the provisions of the Motor Vehicle Code, but the vehicle must be included in the driver's inventory for Internal Revenue Code of 1986 purposes and transferred to the full-time coach or athletic director under conditions that require the dealer to report the value of the use of the vehicle as income to the full-time coach or athletic director.

C. The number of vehicles registered and used pursuant to the provisions of this section shall be excluded when determining compliance with the maximum number of dealer plates allowed pursuant to Subsection B of Section 66-3-402 NMSA 1978."

**Chapter 319 Section 30 Laws 2007**

Section 30. Section 66-3-402 NMSA 1978 (being Laws 1978, Chapter 35, Section 81, as amended) is amended to read:

**"66-3-402. APPLICATION FOR DEALER PLATES.--**

A. A dealer may apply to the department on the appropriate form for one or more dealer plates. The applicant shall submit proof of being a bona fide dealer as may reasonably be required by the department.

B. The maximum number of dealer plates for which a dealer of new or used motor vehicles or motorcycles may apply pursuant to this section shall be:

(1) for a dealer who sold in the previous calendar year five or more but fewer than fifty vehicles, one plate;

(2) for a dealer who sold in the previous calendar year more than fifty but fewer than one hundred vehicles, three plates;

(3) for a dealer who sold in the previous calendar year more than one hundred but fewer than five hundred vehicles, five plates; and

(4) for a dealer who sold in the previous calendar year five hundred or more vehicles, ten plates.

C. A dealer shall be entitled to five plates in the first calendar year in which it begins business. A dealer who is licensed pursuant to the provisions of Section 66-4-1 NMSA 1978 on or after August 1 of any calendar year shall also be entitled to five plates in the calendar year following the year in which it is first licensed to do business.

D. The department upon granting application shall issue to the applicant a certificate containing the applicant's name and address and the numbers of the dealer plates assigned to the applicant."

### **Chapter 319 Section 31 Laws 2007**

Section 31. Section 66-3-403 NMSA 1978 (being Laws 1978, Chapter 35, Section 82, as amended) is amended to read:

"66-3-403. EXPIRATION OF DEALER PLATES.--Every dealer plate issued pursuant to Section 66-3-402 NMSA 1978 expires at midnight on December 31 of each year. Upon payment of the proper fee, the person to whom the dealer plate was issued may apply to the department for a new plate or validating sticker for the ensuing year. Renewal of all dealer plates shall be on or before December 31. It is a misdemeanor pursuant to the Motor Vehicle Code to operate a vehicle with a dealer plate that has expired."

### **Chapter 319 Section 32 Laws 2007**

Section 32. Section 66-3-404 NMSA 1978 (being Laws 1978, Chapter 35, Section 83, as amended) is amended to read:

"66-3-404. DEALER PLATES NOT TRANSFERABLE.--

A. Dealer plates are not transferable between dealers.

B. Whenever a dealer ceases operation for any reason, the dealer shall surrender to the division any dealer plates issued to the dealer."

### **Chapter 319 Section 33 Laws 2007**

Section 33. Section 66-3-408 NMSA 1978 (being Laws 1978, Chapter 35, Section 87) is amended to read:

"66-3-408. SPECIAL REGISTRATION PLATES FOR RECREATIONAL VEHICLES.--All recreational vehicles registered in New Mexico shall carry a special registration plate, including any armed forces veteran plate, disabled veteran plate, purple heart plate, medal of honor plate, ex-prisoner of war plate, Pearl Harbor survivor plate or patriot plate. The color and design of the plates shall be at the discretion of the director."

## Chapter 319 Section 34 Laws 2007

Section 34. Section 66-3-840 NMSA 1978 (being Laws 1978, Chapter 35, Section 146) is amended to read:

"66-3-840. BRAKES.--

A. Brake equipment is required as follows:

(1) every motor vehicle other than a motorcycle when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle, including two separate means of applying the brakes, each of which is effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism does not leave the motor vehicle without brakes on at least two wheels;

(2) every motorcycle when operated upon a highway shall be equipped with at least two brakes that may be operated by hand or foot;

(3) every bus, truck, truck tractor, road tractor, trailer and semitrailer and pole trailer shall be equipped with brakes on all wheels in contact with road surfaces except:

(a) trailers, semitrailers and pole trailers of a gross vehicle weight of less than three thousand pounds;

(b) any vehicle being towed in a driveaway-towaway operation; provided, the combination of vehicles is capable of complying with the performance requirements of Subsection B of this section;

(c) trucks, truck tractors and road tractors having three or more axles need not have brakes on the front wheels except when the vehicles are equipped with at least two steerable axles, the wheels of one axle need not be equipped with brakes;

(d) house-moving dollies subject to regulations adopted by the secretary of transportation under the Motor Transportation Act; and

(e) motor vehicles of the types named in Paragraphs (1) through (3) of this subsection manufactured prior to July 1, 1963;

(4) every house trailer of a gross vehicle weight in excess of three thousand pounds registered in this state shall be equipped with brakes on at least two wheels in contact with road surfaces. Every house trailer of a gross vehicle weight of three thousand pounds or more when operated upon a highway or roadway shall be

equipped with brakes adequate to control the movement of and to stop and to hold the vehicle and so designed as to be applied by the driver of the towing motor vehicle;

(5) every bus, truck, road tractor or truck tractor shall be equipped with parking brakes capable of locking the rear driving wheels and adequate under any condition of loading to hold, to the limit of traction of the braked wheels, the vehicle or combination of vehicles to which the motor vehicle may be attached. The operating controls of the parking brakes shall be independent of the operating controls of the service brakes;

(6) in any combination of motor-drawn vehicles, means shall be provided for applying the rearmost trailer brakes of any trailer equipped with brakes in approximate synchronism with the brakes on the towing vehicle and developing the required braking effort on the rearmost wheels at the fastest rate, or means shall be provided for applying braking effort first on the rearmost trailer equipped with brakes, or both of the above means capable of being used alternatively may be employed; and

(7) the brake shoes operating within or upon the drums on the vehicle wheels of any motor vehicle may be used for both service and hand operation.

B. Every motor vehicle or combination of

motor-drawn vehicles shall be capable at all times, and under all conditions of loading, of being stopped on a dry, smooth, level road, free from loose material, upon application of the service brake within the distance specified in this subsection or shall be capable of being decelerated at a sustained rate corresponding to these distances:

	Feet to stop from	Deceleration
	20 miles per	in feet per
	hour	second
Vehicles or combinations of vehicles having brakes on all wheels	30	14
Vehicles or combinations of vehicles not having brakes on all wheels	40	10.7.

C. All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle."

## **Chapter 319 Section 35 Laws 2007**

Section 35. Section 66-3-847 NMSA 1978 (being Laws 1978, Chapter 35, Section 153, as amended) is amended to read:

"66-3-847. RESTRICTIONS AS TO TIRE EQUIPMENT.--

A. When use is permitted, every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one-inch thick above the edge of the flange of the entire periphery.

B. A person shall not operate or move on a highway a motor vehicle, trailer or semitrailer having any tire surface in contact with the roadway that is wholly or partly of metal or other hard nonresilient material, except a snow tire with metal studs designed to increase traction on ice or snow.

C. No tire on a vehicle moved on a highway shall have on its periphery a block, flange, cleat or spike or any other protuberance of any material other than rubber that projects beyond the tread of the traction surface of the tire. However, it shall be permissible to use farm machinery with tires having protuberances that will not injure the highway and tire chains of reasonable proportions or snow tires with metal studs designed to increase traction on ice or snow upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid.

D. The state transportation commission and local authorities, in their respective jurisdictions, may, in their discretion, issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery that would otherwise be prohibited under the Motor Vehicle Code.

E. A vehicle equipped with solid rubber or cushion tires shall not be permitted upon any highway of this state without special permission from the state transportation commission or the local authority having jurisdiction over the highway affected, and in no event may any such vehicle be operated at a speed in excess of that specified by law."

## **Chapter 319 Section 36 Laws 2007**

Section 36. Section 66-3-1004 NMSA 1978 (being Laws 1978, Chapter 35, Section 200, as amended) is amended to read:

"66-3-1004. REGISTRATION CERTIFICATE AND NONRESIDENT PERMIT FEES--RENEWAL.--

A. The fees for registering an off-highway motor vehicle are:

- (1) seventeen dollars (\$17.00) for each off-highway motor vehicle; and
- (2) an amount determined by rule of the tourism department not to exceed thirty dollars (\$30.00) for an off-highway user fee for each off-highway motor vehicle.

B. Upon a change of ownership, the new owner shall make application and pay registration fees of:

- (1) seventeen dollars (\$17.00) in the same manner as provided by rules of the division for original registration; and
- (2) an amount determined by rule of the tourism department not to exceed thirty dollars (\$30.00) for an off-highway user fee for each off-highway motor vehicle.

C. The fees for a nonresident permit of an off-highway motor vehicle are either:

- (1) seventeen dollars (\$17.00) for each off-highway motor vehicle that is not registered in another state; and
- (2) an amount determined by rule of the tourism department not to exceed thirty dollars (\$30.00) for an off-highway user fee for each off-highway motor vehicle that is not currently in compliance with a similar off-highway user fee law or rule in another state; or
- (3) seventeen dollars (\$17.00) for a ninety-day permit to include both the off-highway motor vehicle not otherwise registered and the off-highway user fee.

D. Except as provided in Paragraph (3) of Subsection C of this section, each registration certificate and nonresident permit shall be:

- (1) good for two years after the month in which the off-highway motor vehicle is registered or the permit is issued; and
- (2) renewed every two years.

E. The off-highway user fee for each off-highway motor vehicle shall be paid upon obtaining and renewing each registration certificate or nonresident permit.

F. Duplicate registration certificates and nonresident permits shall be issued upon payment of a seven-dollar-fifty-cent (\$7.50) fee.

G. A fee of one dollar (\$1.00) on registration certificates and nonresident permits shall be collected for the litter control and beautification fund.

H. The tourism department, in conjunction with the division and the department of game and fish, may establish and maintain sites to collect fees and issue permits for residents and nonresidents."

## **Chapter 319 Section 37 Laws 2007**

Section 37. Section 66-3-1004.1 NMSA 1978 (being Laws 2005, Chapter 325, Section 4) is amended to read:

"66-3-1004.1. FEES--DISPOSITION.--

A. Except as provided in Subsection B of this section, fees collected pursuant to Section 66-3-1004 NMSA 1978 shall be distributed as follows:

(1) of each seventeen dollars (\$17.00) collected pursuant to Paragraph (1) of Subsection A, Paragraph (1) of Subsection B or Paragraph (1) of Subsection C of Section 66-3-1004 NMSA 1978, five dollars (\$5.00) is appropriated to the division to defray the cost of making and issuing registration certificates, validating stickers and nonresident permits for off-highway motor vehicles. The remaining twelve dollars (\$12.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section 66-6-23 NMSA 1978;

(2) fees collected pursuant to Paragraph (2) of Subsection A, Paragraph (2) of Subsection B or Paragraph (2) of Subsection C of Section 66-3-1004 NMSA 1978 to the fund;

(3) fees collected pursuant to Subsection F of Section 66-3-1004 NMSA 1978 are appropriated to the division to defray the cost of making and issuing duplicate registration certificates and nonresident permits for off-highway motor vehicles;

(4) of each seventeen dollars (\$17.00) collected pursuant to Paragraph (3) of Subsection C of Section 66-3-1004 NMSA 1978, five dollars (\$5.00) is appropriated to the division to defray the costs of making and issuing nonresident permits. The remaining twelve dollars (\$12.00) shall be deposited in the fund; and

(5) fees collected pursuant to Subsection G of Section 66-3-1004 NMSA 1978 to the tourism department for the litter control and beautification fund.

B. If fees are collected by the department of game and fish pursuant to Paragraph (1) of Subsection A, Paragraph (1) of Subsection B or Paragraphs (1) and (3) of Subsection C of Section 66-3-1004 NMSA 1978, seven dollars (\$7.00) shall be deposited in the game protection fund, five dollars (\$5.00) shall be deposited in the motor vehicle suspense fund for distribution pursuant to Section 66-6-23 NMSA 1978

and the remaining five dollars (\$5.00) is appropriated to the division to defray the cost of making and issuing registration certificates, validating stickers and nonresident permits for off-highway motor vehicles."

## **Chapter 319 Section 38 Laws 2007**

Section 38. Section 66-3-1102 NMSA 1978 (being Laws 2002, Chapter 38, Section 1) is amended to read:

"66-3-1102. ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES -- STANDARDS -- OPERATOR REQUIREMENTS -- APPLICABILITY -- PENALTIES.--

A. An electric personal assistive mobility device shall be equipped with:

(1) front, rear and side reflectors;

(2) a braking system that enables the operator to bring the device to a controlled stop; and

(3) if operated at any time from one-half hour after sunset to one-half hour before sunrise, a lamp that emits a white light that sufficiently illuminates the area in front of the device.

B. The secretary shall by rule prescribe motor vehicle safety standards applicable to electric personal assistive mobility devices.

C. An operator of an electric personal assistive mobility device traveling on a sidewalk, roadway or bicycle path shall have the rights and duties of a pedestrian and shall exercise due care to avoid colliding with pedestrians. An operator shall yield the right of way to pedestrians.

D. Except as provided in this section, no other provisions of the Motor Vehicle Code shall apply to electric personal assistive mobility devices.

E. An operator who violates a provision of this section shall receive a warning for the first offense. For a second offense, the operator shall be punished by a fine of ten dollars (\$10.00). For a third or subsequent offense, in addition to the fine, the electric personal assistive mobility device shall be impounded for up to thirty days.

F. This section does not apply to personal assistive mobility devices used by persons with disabilities."

## **Chapter 319 Section 39 Laws 2007**

Section 39. Section 66-3-1103 NMSA 1978 (being Laws 2004, Chapter 7, Section 1 and Laws 2004, Chapter 96, Section 1) is amended to read:

"66-3-1103. NEIGHBORHOOD ELECTRIC CARS.--

A. A neighborhood electric car shall be equipped with head lamps, stop lamps, front and rear turn signal lamps, tail lamps, reflex reflectors, a parking brake, at least one interior and one exterior rear view mirror, a windshield, windshield wipers, a speedometer, an odometer, braking for each wheel, seat belts and a vehicle identification number.

B. Except as provided in Subsection C or D of this section, a neighborhood electric car, properly registered pursuant to the provisions of the Motor Vehicle Code, in compliance with the Mandatory Financial Responsibility Act and driven by an individual with a valid driver's license, may be operated on any street, roadway or highway under the jurisdiction of either the state or a local authority if the posted maximum speed limit is thirty-five miles per hour or less; provided, a neighborhood electric car may cross at an intersection or permitted crossing point at any street, roadway or highway that has a posted maximum speed limit higher than thirty-five miles per hour.

C. A local authority may prohibit the operation of neighborhood electric cars on any road under its jurisdiction if the governing body of the local authority determines that the prohibition is necessary in the interest of safety.

D. The department of transportation may prohibit the operation of neighborhood electric cars on any road under its jurisdiction if it determines that the prohibition is necessary in the interest of safety.

E. Neighborhood electric cars are exempt from the following provisions:

(1) the emblems or flashing lights requirement for slow-moving vehicles in Section 66-3-887 NMSA 1978;

(2) any requirement for vehicle emission inspections adopted by a local authority pursuant to Subsection C of Section 74-2-4 NMSA 1978; and

(3) the minimum motor displacement requirement of Paragraph (2) of Subsection A of Section 66-7-405 NMSA 1978."

## **Chapter 319 Section 40 Laws 2007**

Section 40. Section 66-4-2 NMSA 1978 (being Laws 1978, Chapter 35, Section 215, as amended by Laws 2005, Chapter 15, Section 1 and by Laws 2005, Chapter 324, Section 14) is amended to read:

"66-4-2. DEPARTMENT TO ISSUE LICENSE.--

A. Except for recreational vehicles, the department, upon receiving application accompanied by the required fee and when satisfied that the applicant is of good

character and complies with the laws of this state with reference to the registration of vehicles and certificates of title and the provisions of the Motor Vehicle Code, shall issue to the applicant a license that entitles the licensee to conduct the business of a dealer, auto recycler or title service company. The license may be renewed upon application and payment of the fee required by law. A licensee shall not lease, loan, transfer or sell its license to another person, and no person shall use the license of another person for any purpose.

B. A dealer or auto recycler licensee, before moving any of the licensee's places of business or opening any additional place of business, shall apply to the department for and obtain a supplemental license for which no fee shall be charged. No supplemental license shall be issued to a dealer, other than a dealer in motorcycles only, for an additional place of business unless the business already has an established place of business.

C. A person to whom the department has issued a license to conduct the business of a dealer in motorcycles only is also deemed a recycler of motorcycles without additional license."

## **Chapter 319 Section 41 Laws 2007**

Section 41. A new section of the Motor Vehicle Code, Section 66-4-2.2 NMSA 1978, is enacted to read:

### **"66-4-2.2. OFF-SITE SALES.--**

A. A New Mexico licensed dealer, before offering a vehicle or vessel for sale at a temporary off-site location, shall apply to the department for and obtain an off-site permit. No off-site permit shall be issued to a New Mexico licensed dealer, other than a dealer in motorcycles only, for a temporary off-site location unless the dealer:

(1) documents to the satisfaction of the department that the dealer has offered the majority of dealers, other than dealers in motorcycles only, in the county in which the proposed temporary off-site location would be located, the opportunity to offer vehicles or vessels for sale at the proposed temporary off-site location; provided that the offer shall be for sale of vehicles or vessels at all times during which the applicant proposes to sell vehicles or vessels and shall not be conditioned upon the payment of a fee by a dealer to whom the off-site permit is addressed that is greater than a fair share of the actual expenses; and

(2) obtains either an original rider to the dealer's existing corporate surety bond or an original corporate surety bond in compliance with the provisions of Section 66-4-7 NMSA 1978 to cover the proposed temporary

off-site location and dates of sale.

B. All temporary off-site locations shall be identified by prominently displayed signs identifying the names of the New Mexico licensed dealers selling vehicles or vessels at the temporary off-site location and shall be of sufficient size or space to permit the safe display of the vehicles or vessels offered for sale."

## **Chapter 319 Section 42 Laws 2007**

Section 42. Section 66-4-3 NMSA 1978 (being Laws 1978, Chapter 35, Section 216, as amended) is amended to read:

"66-4-3. REFUSAL TO ISSUE LICENSE--CANCELLATION OR SUSPENSION OF LICENSE OR USE OF TEMPORARY PERMITS--HEARING--APPEAL.--

A. The department may refuse to issue a license for just cause and may cancel or suspend a license or use of a temporary registration permit, demonstration permit or transport permit for violation of the Motor Vehicle Code. The department shall take the action authorized in this section only after hearing. Notice of hearing shall be given the party concerned as provided in Section 66-2-11 NMSA 1978. The notice shall state the proposed action of the department and the reason for the proposed action.

B. The department shall prepare rules for the conduct of the hearing. At the hearing, the technical rules of evidence do not apply, and a party has the right to be represented by counsel, to call witnesses in the party's own behalf and to cross-examine the witnesses of other parties.

C. The secretary or the secretary's designated agent shall conduct the hearing for the department and shall cause a record of hearing to be made.

D. Within ten days after completion of the hearing, the secretary shall cause to be served upon all parties, in the manner provided in Section 66-2-11 NMSA 1978, the secretary's findings and decision. The decision shall be:

(1) granting a license or refusing to grant a license;

(2) continuing a license, canceling a license or suspending a license for a time stated; or

(3) continuing use of dealer plates and temporary registration permits, demonstration permits or transport permits, canceling dealer plates and temporary registration permits, demonstration permits or transport permits or suspending use of temporary registration permits, demonstration permits or transport permits for a time stated.

E. A party aggrieved by the secretary's decision may file an appeal in the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

## Chapter 319 Section 43 Laws 2007

Section 43. Section 66-4-5 NMSA 1978 (being Laws 1978, Chapter 35, Section 218, as amended) is amended to read:

### "66-4-5. RECORDS OF PURCHASES, OF SALES AND OF VEHICLES DISMANTLED.--

A. A dealer licensee shall maintain a record in a form prescribed by the department of every vehicle of a type subject to registration pursuant to the provisions of the Motor Vehicle Code that is bought, sold or exchanged by the licensee or received by the licensee for sale or exchange.

B. An auto recycler licensee shall maintain a record in a form prescribed by the department of:

(1) every vehicle of a type subject to registration pursuant to the provisions of the Motor Vehicle Code that is bought, exchanged or received and dismantled or otherwise destroyed by the licensee; and

(2) every motor vehicle body, chassis or engine that is sold or otherwise disposed of by the licensee.

C. Every record required to be maintained pursuant to Subsection A or B of this section shall state the name and address of the person from whom the vehicle was purchased or acquired and the date of the purchase; the name and address of the person to whom the vehicle or the motor vehicle body, chassis or engine was sold or otherwise disposed of and the date of the sale or disposition; and a sufficient description of every vehicle or motor vehicle body, chassis or engine by name and identifying numbers sufficient to identify the vehicle or motor vehicle body, chassis or engine.

D. A title service company licensee shall maintain a record of:

(1) every temporary registration permit issued;

(2) every title and registration application accepted for processing; and

(3) any other information prescribed by the department.

E. Every record required to be maintained pursuant to the provisions of this section shall be retained for a period of three years from the end of the year in which the record was created and shall be open to inspection by any peace officer or officer of the department during reasonable business hours. If the licensee fails to maintain the records required or to permit their inspection during reasonable business hours, the license becomes invalid."

## **Chapter 319 Section 44 Laws 2007**

Section 44. Section 66-5-2 NMSA 1978 (being Laws 1978, Chapter 35, Section 224, as amended) is amended to read:

"66-5-2. DRIVERS MUST BE LICENSED.--

A. Except those expressly exempted from the Motor Vehicle Code, no person shall drive any motor vehicle, neighborhood electric car or moped upon a highway in this state unless the person:

(1) holds a valid license issued under the provisions of the Motor Vehicle Code; and

(2) has surrendered to the division any other license previously issued to the person by this state or by another state or country or has filed an affidavit with the division that the person does not possess such other license; however, the applicant need not surrender a motorcycle license duly obtained under Paragraph (3) of Subsection A of Section 66-5-5 NMSA 1978.

B. Any person licensed under the provisions of the Motor Vehicle Code or expressly exempted from licensure may exercise the privilege granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise the privilege by any county, municipality or any other local body having authority to adopt local police regulations."

## **Chapter 319 Section 45 Laws 2007**

Section 45. 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 driver's license or a provisional license, has authority, whenever good cause appears, to 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-five 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 its effect on the driving ability of the applicant and, based on its 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 through 66-5-47 NMSA 1978.

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 319 Section 46 Laws 2007**

Section 46. Section 66-5-29 NMSA 1978 (being Laws 1978, Chapter 35, Section 251, as amended by Laws 2005, Chapter 241, Section 2 and by Laws 2005, Chapter 269, Section 2) is amended to read:

"66-5-29. MANDATORY REVOCATION OF LICENSE BY DIVISION.--

A. The division shall immediately revoke the driving privilege or driver's license of a driver upon receiving a record of the driver's adjudication as a delinquent for or conviction of any of the following offenses, whether the offense is under any state law or local ordinance, when the conviction or adjudication has become final:

(1) manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(2) any offense rendering a person a "first offender" as defined in the Motor Vehicle Code;

(3) any offense rendering a person a "subsequent offender" as defined in the Motor Vehicle Code;

(4) any felony in the commission of which a motor vehicle is used;

(5) failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

(6) perjury or the making of a false affidavit or statement under oath to the division under the Motor Vehicle Code or under any other law relating to the ownership or operation of motor vehicles; or

(7) conviction or forfeiture of bail not vacated upon three charges of reckless driving committed within a period of twelve months.

B. Except as provided in the Ignition Interlock Licensing Act and in Subsection C, D, E or F of this section, a person whose driving privilege or driver's license has been revoked under this section shall not be entitled to apply for or receive a new license until one year from the date that the conviction is final and all rights to an appeal have been exhausted.

C. A person who upon adjudication as a delinquent for driving while under the influence of intoxicating liquor or drugs or a conviction pursuant to Section 66-8-102 NMSA 1978 is subject to revocation of the driving privilege or driver's license under this section for an offense pursuant to which the person was also subject to revocation of the driving privilege or driver's license pursuant to Section 66-8-111 NMSA 1978 shall have the person's driving privilege or driver's license revoked for that offense for a combined period of time equal to:

(1) one year for a first offender; or

(2) for a subsequent offender:

(a) two years for a second conviction;

(b) three years for a third conviction; or

(c) the remainder of the offender's life for a fourth or subsequent conviction, subject to a five-year review, as provided in Sections 66-5-5 and 66-8-102 NMSA 1978.

D. The division shall apply the license revocation provisions of Subsection C of this section and the provisions of Subsection D of Section 66-5-5 NMSA 1978 to a person who was three or more times convicted of driving a motor vehicle under the influence of intoxicating liquor or drugs and who has a driver's license revocation pursuant to the law in effect prior to June 17, 2005, upon the request of the person and if the person has had an ignition interlock license for three years or more and has proof from the ignition interlock vendor of no violations of the ignition interlock device in the previous six months.

E. Upon receipt of an order from a court pursuant to Section 32A-2-19 NMSA 1978 or Subsection G of Section 32A-2-22 NMSA 1978, the division shall revoke the driver's license or driving privileges for a period of time in accordance with these provisions.

F. Upon receipt from a district court of a record of conviction for the offense of shooting at or from a motor vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978 or of a conviction for a conspiracy or an attempt to commit that offense, the division shall revoke the driver's license or driving privileges of the convicted person. A person whose driver's license or driving privilege has been revoked pursuant to the provisions of this subsection shall not be entitled to apply for or receive any new driver's license or driving privilege until one year from the date that the conviction is final and all rights to an appeal have been exhausted."

## **Chapter 319 Section 47 Laws 2007**

Section 47. Section 66-5-35 NMSA 1978 (being Laws 1978, Chapter 35, Section 257, as amended by Laws 2005, Chapter 241, Section 4 and by Laws 2005, Chapter 269, Section 4) is amended to read:

"66-5-35. LIMITED DRIVING PRIVILEGE UPON SUSPENSION OR REVOCATION.--

A. Upon suspension or revocation of a person's driving privilege or driver's license following conviction or adjudication as a delinquent under any law, ordinance or rule relating to motor vehicles, the person may apply to the department for a driver's license, provisional license or instruction permit to drive, limited to use allowing the person to engage in gainful employment, to attend school or to attend a court-ordered treatment program, except that the person shall not be eligible to apply:

(1) for a limited commercial driver's license or an ignition interlock license in lieu of a revoked or suspended commercial driver's license;

(2) for a limited license when the person's driver's license was revoked pursuant to the provisions of the Implied Consent Act, except as provided in the Ignition Interlock Licensing Act;

(3) for a limited license when the person's driver's license was revoked pursuant to the provisions of Section 66-8-102 NMSA 1978, except as provided in the Ignition Interlock Licensing Act;

(4) for a limited license when the person's driver's license is denied pursuant to the provisions of Subsection D of Section 66-5-5 NMSA 1978, except as provided in the Ignition Interlock Licensing Act; or

(5) for a limited license when the person's driver's license was revoked pursuant to a conviction for committing homicide by vehicle or great bodily injury by vehicle, as provided in Section 66-8-101 NMSA 1978.

B. Upon receipt of a fully completed application that complies with statutes and rules for a limited license or an ignition interlock license and payment of the fee specified in this subsection, the department shall issue a limited license, ignition interlock license or permit to the applicant showing the limitations specified in the approved application. For each limited license, ignition interlock license or permit to drive, the applicant shall pay to the department a fee of forty-five dollars (\$45.00), which shall be transferred to the department of transportation. All money collected under this subsection shall be used for DWI prevention and education programs for elementary and secondary school students. The department of transportation shall coordinate with the department of health to ensure that there is no program duplication. The limited license or permit to drive may be suspended as provided in Section 66-5-30 NMSA 1978."

## **Chapter 319 Section 48 Laws 2007**

Section 48. Section 66-5-502 NMSA 1978 (being Laws 2003, Chapter 239, Section 2, as amended) is amended to read:

"66-5-502. DEFINITIONS.--As used in the Ignition Interlock Licensing Act:

A. "denied" means the division has refused to issue an instruction permit, driver's license or provisional license pursuant to the provisions of Subsection D of Section 66-5-5 NMSA 1978;

B. "ignition interlock device" means a device, approved by the traffic safety bureau, that prevents the operation of a motor vehicle by an intoxicated or impaired person;

C. "ignition interlock license" means a driver's license issued to a person by the division that allows that person to operate a motor vehicle with an ignition interlock device after that person's driving privilege or driver's license has been revoked or denied. The division shall clearly mark an ignition interlock license to distinguish it from other driver's licenses; and

D. "revoked" means the division, pursuant to the provisions of Section 66-5-29 or 66-8-111 NMSA 1978, has terminated a person's driving privilege or driver's license for driving while under the influence of intoxicating liquor or drugs."

## **Chapter 319 Section 49 Laws 2007**

Section 49. Section 66-5-503 NMSA 1978 (being Laws 2003, Chapter 239, Section 3) is amended to read:

"66-5-503. IGNITION INTERLOCK LICENSE--REQUIREMENTS--

EXCLUSIONS.--

A. A person whose driving privilege or driver's license has been revoked or denied may apply for an ignition interlock license from the division.

B. An applicant for an ignition interlock license shall:

(1) provide proof of installation of the ignition interlock device by a traffic safety bureau-approved ignition interlock installer on any vehicle the applicant drives; and

(2) sign an affidavit acknowledging that:

(a) operation by the applicant of any vehicle that is not equipped with an ignition interlock device is subject to penalties for driving with a revoked license; and

(b) the applicant shall maintain the ignition interlock device and keep up-to-date records in the motor vehicle showing required service and calibrations and be able to provide the records upon request.

C. A person who has been convicted of homicide by vehicle or great bodily injury by vehicle while under the influence of intoxicating liquor or drugs, as provided in Section 66-8-101 NMSA 1978, shall not be issued an ignition interlock license."

## **Chapter 319 Section 50 Laws 2007**

Section 50. Section 66-6-3 NMSA 1978 (being Laws 1978, Chapter 35, Section 338, as amended) is amended to read:

"66-6-3. TRAILERS--REGISTRATION FEES.--

A. For freight trailers, the division shall collect thirteen dollars (\$13.00) for permanent registration or re-registration after sale or transfer.

B. For utility trailers, the division shall collect:

(1) for the annual registration of each utility trailer not permanently registered, seven dollars (\$7.00) plus one dollar (\$1.00) for each one hundred pounds or major fraction thereof of actual empty weight over five hundred pounds;

(2) for the permanent registration of utility trailers not used in commerce that have a gross vehicle weight of less than six thousand one pounds, thirty-three

dollars (\$33.00) plus seven dollars (\$7.00) for each one hundred pounds or major fraction thereof of actual empty weight over five hundred pounds; and

(3) for the re-registration of permanently registered utility trailers after sale or transfer, seven dollars (\$7.00).

C. For travel trailers, the division shall collect:

(1) for the annual registration of each travel trailer that is not permanently registered, seven dollars (\$7.00) plus fifty cents (\$.50) for each one hundred pounds or major fraction thereof of gross factory shipping weight over five hundred pounds or, if gross factory shipping weight is not available, of actual empty weight over five hundred pounds;

(2) for the permanent registration of travel trailers, thirty-three dollars (\$33.00) plus three dollars fifty cents (\$3.50) for each one hundred pounds or major fraction thereof of gross factory shipping weight over five hundred pounds or, if the gross factory shipping weight is not available, of actual empty weight over five hundred pounds; and

(3) for the re-registration of permanently registered travel trailers after sale or transfer, seven dollars (\$7.00).

D. At the option of the owner of a fleet of fifty or more utility trailers wishing to register them in New Mexico, the division shall issue a registration and registration plate for each trailer in the fleet, the registration and registration plate to expire on the last day of the final month of a five-year period. Registrations and registration plates shall be issued for five years only if the owner of the trailers meets the following requirements:

(1) application is made on forms prescribed by the division and payment of the proper fee is made;

(2) upon the option of the director, presentation is made at the time of registration of a surety bond, certificate of deposit or of other financial security; and

(3) payment is made by the fleet owner of all registration fees due each year prior to the expiration date. If such fees are not paid, all registrations and registration plates in the fleet shall be canceled."

## **Chapter 319 Section 51 Laws 2007**

Section 51. Section 66-6-4 NMSA 1978 (being Laws 1978, Chapter 35, Section 339, as amended) is amended to read:

"66-6-4. REGISTRATION FEES--TRUCKS, TRUCK TRACTORS, ROAD TRACTORS AND BUSES.--

A. Within their respective jurisdictions, the motor vehicle division and the motor transportation division of the department of public safety shall charge registration fees for trucks, truck tractors, road tractors and buses, except as otherwise provided by law, according to the schedule of Subsection B of this section.

B. Declared Gross Weight	Fee
001 to 4,000	\$40
4,001 to 6,000	55
6,001 to 8,000	69
8,001 to 10,000	84
10,001 to 12,000	99
12,001 to 14,000	113
14,001 to 16,000	128
16,001 to 18,000	143
18,001 to 20,000	157
20,001 to 22,000	172
22,001 to 24,000	187
24,001 to 26,000	201
26,001 to 48,000	118
48,001 and over	172.

C. All trucks whose declared gross weight or whose gross vehicle weight is less than twenty-six thousand pounds, after five years of registration, calculated from the date when the vehicle was first registered in this or another state, shall be charged registration fees at eighty percent of the rate set out in Subsection B of this section.

D. All trucks with a gross vehicle weight of more than twenty-six thousand pounds and all truck tractors and road tractors used to tow freight trailers shall be registered on the basis of gross combination vehicle weight.

E. All trucks with a gross vehicle weight of twenty-six thousand pounds or less shall be registered on the basis of gross vehicle weight. A trailer, semitrailer or pole

trailer towed by a truck of such gross vehicle weight shall be classified as a utility trailer for registration purposes unless otherwise provided by law.

F. All farm vehicles having a declared gross weight of more than six thousand pounds shall be charged registration fees of two-thirds of the rate of the respective fees provided in this section and shall be issued distinctive registration plates. "Farm vehicle" means a vehicle owned by a person whose principal occupation is farming or ranching and which vehicle is used principally in the transportation of farm and ranch products to market and farm and ranch supplies and livestock from the place of purchase to farms and ranches in this state; provided that the vehicle is not used for hire.

G. In addition to other registration fees imposed by this section, beginning July 1, 1994, an annual tire recycling fee of one dollar fifty cents (\$1.50) is imposed at the time of registration on each vehicle subject to a registration fee pursuant to this section, except for vehicles with a declared gross weight of greater than twenty-six thousand pounds upon which registration fees are imposed by Subsection B of this section.

H. Three percent of registration fees of trucks having from twenty-six thousand one pounds to forty-eight thousand pounds declared gross vehicle weight is to be transferred to the recycling and illegal dumping fund pursuant to the provisions of Section 66-6-23 NMSA 1978.

I. Three and seventy-five hundredths percent of registration fees of trucks in excess of forty-eight thousand pounds declared gross vehicle weight is to be transferred to the recycling and illegal dumping fund pursuant to the provisions of Section 66-6-23 NMSA 1978."

## **Chapter 319 Section 52 Laws 2007**

Section 52. Section 66-6-11 NMSA 1978 (being Laws 1978, Chapter 35, Section 346) is amended to read:

"66-6-11. COMPUTATION OF WEIGHT.--The weight for determining registration fees for all vehicles shall be the gross factory shipping weight, or if the gross factory shipping weight is unavailable, the actual empty weight of the vehicle, except as otherwise provided by law for trucks, truck tractors, road tractors, buses, freight trailers, utility trailers and travel trailers."

## **Chapter 319 Section 53 Laws 2007**

Section 53. Section 66-6-16 NMSA 1978 (being Laws 1978, Chapter 35, Section 351) is amended to read:

"66-6-16. EXEMPTION FOR ARMED FORCES AMPUTEES AND THOSE WHO HAVE LOST USE OF LIMBS.--A person who is a bona fide resident of New Mexico, who served in the armed forces of the United States, who was honorably discharged

and who suffered the loss or complete and total loss of use of one or both legs at or above the ankle or one or both arms at or above the wrist while so serving or from a service-connected cause shall be exempt from payment of any motor vehicle registration fees to the state on one vehicle a year owned by the person."

### **Chapter 319 Section 54 Laws 2007**

Section 54. Section 66-6-17 NMSA 1978 (being Laws 1978, Chapter 35, Section 352, as amended) is amended to read:

"66-6-17. DEALER PLATE FEES.--

A. Except as provided otherwise in Subsection C of this section, every dealer, except a dealer in motorcycles only, shall pay each license year fifty dollars (\$50.00) for each dealer plate issued pursuant to Section 66-3-402 NMSA 1978 to the dealer for that license year.

B. Except as provided otherwise in Subsection C of this section, every dealer in motorcycles only shall pay each license year ten dollars (\$10.00) for each dealer plate issued pursuant to Section 66-3-402 NMSA 1978 to the dealer for that license year.

C. In the event a dealer plate is lost, mutilated or becomes illegible, a dealer, including a dealer in motorcycles only, shall obtain a replacement plate pursuant to the provisions of Section 66-3-24 NMSA 1978. The fee for a replacement dealer plate shall be fifty dollars (\$50.00) for a dealer or ten dollars (\$10.00) for a dealer in motorcycles only."

### **Chapter 319 Section 55 Laws 2007**

Section 55. Section 66-6-19 NMSA 1978 (being Laws 1978, Chapter 35, Section 354) is amended to read:

"66-6-19. VEHICLE TRANSACTION FEES.--

A. For any transaction concerning the initial issuance, transfer or revocation of a title or registration, including filing and recording documents, releasing liens and certifying copies, the division shall charge three dollars (\$3.00). As used in this subsection, "transaction" means all operations necessary at one time with respect to one vehicle, including the inspection required by Section 66-3-4 NMSA 1978.

B. No fee shall be charged by the division for the correction of documents or the issuance of documents in cases in which the division made errors in the original issuance of the documents."

### **Chapter 319 Section 56 Laws 2007**

Section 56. Section 66-6-22.1 NMSA 1978 (being Laws 1990, Chapter 120, Section 34, as amended) is amended to read:

"66-6-22.1. MOTOR VEHICLE SUSPENSE FUND CREATED--RECEIPTS--  
DISBURSEMENTS.--

A. There is created in the state treasury a fund to be known as the "motor vehicle suspense fund".

B. The fees collected under the provisions of Sections 66-1-1 through 66-6-19 NMSA 1978 shall be paid to the state treasurer for the credit of the motor vehicle suspense fund not later than the close of the second business day after their receipt, except as otherwise provided by the Off-Highway Motor Vehicle Act.

C. Money deposited to the credit of or disbursed from the motor vehicle suspense fund by the department shall be accounted for as provided by law, rule or procedure of the secretary of finance and administration.

D. The balance of the motor vehicle suspense fund is appropriated for the purpose of making refunds, distributions and other disbursements authorized or required by law to be made from the motor vehicle suspense fund, provided that no distribution shall be made to a municipality, county or fee agent operating a motor vehicle field office with respect to money collected and remitted to the department by that municipality, county or fee agent until the report of the municipality, county or fee agent is audited and accepted by the department."

### **Chapter 319 Section 57 Laws 2007**

Section 57. A new section of the Motor Vehicle Code, Section 66-6-22.2 NMSA 1978, is enacted to read:

"66-6-22.2. ADJUSTMENTS OF DISBURSEMENTS FROM THE MOTOR VEHICLE SUSPENSE FUND.--

A. The provisions of this section apply to disbursements from the motor vehicle suspense fund.

B. If the secretary determines that a prior disbursement from the fund is erroneous, the secretary shall, pursuant to law, rules or procedures of the department of finance and administration, adjust future disbursements by the amount necessary to correct the error.

C. The secretary may, in lieu of recovering the entire erroneous amount from the next disbursement, recover an excess disbursement of one thousand dollars (\$1,000) or more in installments from current and future disbursements pursuant to a written

agreement whenever the amount of the disbursement decrease exceeds ten percent of the average disbursement amount for that recipient for the twelve months preceding the month in which the secretary's determination is made; provided that, for the purposes of this subsection, the "average disbursement amount" shall be the arithmetic mean of the disbursement amounts within the twelve months immediately preceding the month in which the determination is made.

D. Except for the provisions of this section, if the amount by which a disbursement would be adjusted pursuant to Subsection B of this section is one thousand dollars (\$1,000) or less, no adjustment shall be made.

E. In the event an adjustment authorized by this section requires a disbursement for which there is no equal offsetting receipt, the general fund disbursement shall be reduced by the difference between the offsetting receipt and the adjustment."

### **Chapter 319 Section 58 Laws 2007**

Section 58. Section 66-7-352.1 NMSA 1978 (being Laws 1983, Chapter 45, Section 1, as amended) is amended to read:

"66-7-352.1. SHORT TITLE.--Sections 66-7-352.1 through 66-7-352.6 NMSA 1978 may be cited as the "Accessible Parking Standards and Enforcement Act"."

### **Chapter 319 Section 59 Laws 2007**

Section 59. Section 66-7-352.2 NMSA 1978 (being Laws 1983, Chapter 45, Section 2) is amended to read:

"66-7-352.2. LEGISLATIVE INTENT.--The policy and intent of this legislature is declared to be as follows:

A. that this legislature finds there is a significant safety hazard for persons with significant mobility limitation crossing through parking lots and that this hazard is greatly reduced when parking is provided adjacent to a building entrance;

B. that commercial and governmental establishments provide reserved parking for persons with significant mobility limitation, thus ensuring full and equal opportunity for those persons to maintain independence and self-respect; and

C. that ultimately society will benefit from the increased interaction of persons with significant mobility limitation with the mainstream that these parking spaces will provide."

### **Chapter 319 Section 60 Laws 2007**

Section 60. Section 66-7-352.4 NMSA 1978 (being Laws 1983, Chapter 45, Section 4, as amended) is amended to read:

"66-7-352.4. PARKING LOTS--STANDARDS.--

A. Every parking lot coming under the provisions of the Accessible Parking Standards and Enforcement Act shall have designated accessible parking spaces for persons with significant mobility limitation as provided in Subsection B of this section. No building permit shall be issued by any local government for the construction or substantial renovation of a commercial building inviting public access unless the parking lot has designated accessible parking spaces for persons with significant mobility limitation as delineated in Subsection B of this section.

B. The minimum numbers of designated accessible parking spaces for persons with significant mobility limitation are as follows:

TOTAL PARKING SPACES IN LOT	REQUIRED MINIMUM NUMBER OF PARKING SPACES FOR PERSONS WITH SIGNIFICANT MOBILITY LIMITATION
1 to 25	1
26 to 35	2
36 to 50	3
51 to 100	4
101 to 300	8
301 to 500	12
501 to 800	16
801 to 1,000	20
more than 1,000	20, plus 1 for each 100 over 1,000.

The designated accessible parking spaces for persons with significant mobility limitation shall be located so as to provide the most convenient access to entranceways

or to the nearest curb cut. Every parking lot shall have at least one designated accessible parking space for persons with significant mobility limitation designed to accommodate a motor vehicle passenger van, and there shall be a minimum of one such space for every eight designated accessible parking spaces for persons with significant mobility limitation."

## **Chapter 319 Section 61 Laws 2007**

Section 61. Section 66-7-352.5 NMSA 1978 (being Laws 1983, Chapter 45, Section 5, as amended) is amended to read:

"66-7-352.5. UNAUTHORIZED USE--PENALTIES.--

A. It is unlawful for any person to park a motor vehicle not displaying a special registration plate or a parking placard issued pursuant to Section 66-3-16 NMSA 1978 in a designated accessible parking space for persons with significant mobility limitation.

B. It is unlawful for any person to park a motor vehicle in such a manner so as to block access to any part of a curb cut designed for access by persons with significant mobility limitation.

C. A person convicted of violating Subsection A or B of this section is subject to a fine of not less than two hundred fifty dollars (\$250) or more than five hundred dollars (\$500). Failure to properly display a parking placard or special registration plate issued pursuant to Section 66-3-16 NMSA 1978 is not a defense against a charge of violation of Subsection A or B of this section.

D. A vehicle parked in violation of Subsection A or B of this section is subject to being towed at the expense of the vehicle owner upon authorization by law enforcement personnel or by the property owner or manager of a parking lot."

## **Chapter 319 Section 62 Laws 2007**

Section 62. Section 66-7-505 NMSA 1978 (being Laws 1978, Chapter 35, Section 492, as amended) is amended to read:

"66-7-505. ADVISORY COMMITTEE--CREATION--MEMBERS--TERMS.--

A. There is created a five-member advisory committee to the bureau. The chief is, ex officio, the chair and a voting member of the committee. The governor shall appoint three members, to terms coterminous with the governor's tenure, who shall have the following qualifications:

(1) one member who is representative of the law enforcement agencies of this state;

(2) one member who is representative of the school bus transportation function of the public education department; and

(3) one member who is representative of the motor transportation division of the department of public safety.

B. Appointees who are public officers or public employees shall be compensated for attendance at meetings according to the Per Diem and Mileage Act. Appointees who are not public officers or employees shall be compensated for attendance at meetings in commensurate amount."

## **Chapter 319 Section 63 Laws 2007**

Section 63. Section 66-7-513 NMSA 1978 (being Laws 2003, Chapter 148, Section 2) is amended to read:

"66-7-513. SAFE ROUTES TO SCHOOL PROGRAM.--

A. The "safe routes to school program" is created within the department to increase and make safer a student's ability to walk or ride a bicycle to school.

B. The program may be established to:

(1) provide assistance to the state, counties and municipalities to identify school route hazards and implement engineering improvements, including:

- (a) installing sidewalks;
- (b) painting crosswalks and other street and sidewalk areas;
- (c) installing traffic signals;
- (d) making street improvements;
- (e) providing lighting;
- (f) providing bus shelters, particularly in isolated or rural areas;
- (g) cutting curbs for access for persons with significant mobility limitation; and
- (h) other safety improvements;

(2) develop criteria, in conjunction with the department's bicycle, pedestrian and equestrian committee, school districts and law enforcement agencies

and with input from parents, teachers and school administrators, to be used in evaluating the applications of the program; and

(3) include information about the safe routes to school program in public awareness campaigns about traffic safety."

## **Chapter 319 Section 64 Laws 2007**

Section 64. Section 66-8-124 NMSA 1978 (being Laws 1961, Chapter 213, Section 3, as amended) is amended to read:

"66-8-124. ARRESTING OFFICER TO BE IN UNIFORM.--

A. No person shall be arrested for violating the Motor Vehicle Code or other law relating to motor vehicles punishable as a misdemeanor except by a commissioned, salaried peace officer who, at the time of arrest, is wearing a uniform clearly indicating the peace officer's official status.

B. Notwithstanding the provisions of Subsection A of this section, a municipality may provide by ordinance that uniformed private security guards may be commissioned by the local police agency to issue parking citations for violations of clearly and properly marked fire zones and access zones for persons with significant mobility limitation. Prior to the commissioning of any security guard, the employer of the security guard shall agree in writing with the local police agency to the commissioning of the employer's security guard. The employer of any security guard commissioned under the provisions of this section shall be liable for the actions of that security guard in carrying out the security guard's duties pursuant to that commission. Notwithstanding the provisions of the Tort Claims Act, private security guards commissioned under this section shall not be deemed public employees under that act."

## **Chapter 319 Section 65 Laws 2007**

Section 65. A new section of the Motor Vehicle Code is enacted to read:

"FRAUD IN OBTAINING DOCUMENTS ISSUED BY THE DIVISION--PENALTY.-

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A. It is a felony for a person to:

(1) knowingly issue an identification card, driver's license, 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, vehicle or vessel registration or vehicle or vessel title;

(3) knowingly alter a record of an identification card, driver's license, 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 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 319 Section 66 Laws 2007**

Section 66. A new section of the Taxation and Revenue Department Act is enacted to read:

"BACKGROUND INVESTIGATIONS -- DUTIES -- EMPLOYEES -- CONDITION OF EMPLOYMENT.--

A. An employee of the department who has access to or who is assigned to perform work associated with driver's licenses shall submit to a background investigation as required by the secretary.

B. An applicant seeking employment with the department who may have access to or who may be assigned to perform work associated with driver's licenses shall submit to a background investigation as required by the secretary.

C. The secretary shall ensure that fingerprints as required for a national criminal history records search and state background investigation are provided by:

(1) an employee of the department who has access to or is assigned to perform work associated with driver's licenses; or

(2) an applicant seeking employment with the department who may have access to or who may be assigned to perform work associated with driver's licenses.

D. The information obtained in a background investigation shall be used only to determine if a person required to submit to a background investigation pursuant to this section has been convicted of a crime that has a direct impact on the ability of that person to meet federal requirements or to perform the specific duties assigned to that person. The secretary may determine not to continue to employ or not to initiate employment of a person whose criminal background investigation contains information that the person has been convicted of a crime that involved actions that:

(1) directly reflect on the person's ability to perform the specific duties of that person's position or proposed position; or

(2) would conflict with federal requirements.

E. Information obtained pursuant to a background investigation shall be confidential and shall only be used for determining the fitness of a person to remain or become employed with the department or to comply with federal requirements regarding employees who have access to or who may be assigned to perform work associated with driver's licenses."

## **Chapter 319 Section 67 Laws 2007**

Section 67. REPEAL.--Sections 66-3-15.1 and 74-4F-1 through 74-4F-8 NMSA 1978 (being Laws 2001, Chapter 180, Section 1 and Laws 1996, Chapter 37, Sections 1 through 8, as amended) are repealed.

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Senate Corporations and Transportation

Committee Substitute for

Senate Bill 905, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 320**

AN ACT

RELATING TO MOTOR VEHICLE REGISTRATION; ADDRESSING ISSUES OF TITLE AND REGISTRATION OF VEHICLES OWNED BY A CARRIER THAT IS FROM A JURISDICTION THAT IS NOT A PARTICIPANT IN THE INTERNATIONAL FUEL TAX AGREEMENT, THAT IS AUTHORIZED BY THE UNITED STATES GOVERNMENT TO CONDUCT CROSS-BORDER OPERATIONS BEYOND THE COMMERCIAL BORDER ZONE PURSUANT TO THE PROVISIONS OF THE NORTH AMERICAN FREE TRADE AGREEMENT AND THAT IDENTIFIES NEW MEXICO AS THE CARRIER'S BASE JURISDICTION; DECLARING AN EMERGENCY.

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

### **Chapter 320 Section 1 Laws 2007**

Section 1. Section 66-3-1 NMSA 1978 (being Laws 1978, Chapter 35, Section 21, as amended) is amended to read:

"66-3-1. VEHICLES SUBJECT TO REGISTRATION--EXCEPTIONS.--

A. With the exception of vehicles identified in Subsection B of this section, every motor vehicle, trailer, semitrailer and pole trailer when driven or moved upon a highway is subject to the registration and certificate of title provisions of the Motor Vehicle Code except:

(1) any such vehicle driven or moved upon a highway in conformance with the provisions of the Motor Vehicle Code relating to manufacturers, dealers, lien-holders or nonresidents;

(2) any such vehicle that is driven or moved upon a highway only for the purpose of crossing the highway from one property to another;

(3) any implement of husbandry that is only incidentally operated or moved upon a highway;

(4) any special mobile equipment;

(5) any vehicle that is propelled exclusively by electric power obtained from overhead trolley wires though not operated upon rails;

(6) freight trailers if they are:

(a) properly registered in another state;

(b) identified by a proper base registration plate that is properly displayed; and

(c) identified by other registration documents that are in the possession of the operator and exhibited at the request of a police officer;

(7) freight trailers or utility trailers owned and used by:

(a) a nonresident solely for the transportation of farm products purchased by the nonresident from growers or producers of the farm products and transported in the trailer out of the state;

(b) farmers and ranchers who transport to market only the produce, animals or fowl produced by them or who transport back to their farms and ranches supplies for use thereon; or

(c) persons who transport animals to and from fairs, rodeos or other places, except racetracks, where the animals are exhibited or otherwise take part in performances, in trailers drawn by a motor vehicle or truck of less than ten thousand pounds gross vehicle weight rating bearing a proper registration plate, but in no case shall the owner of an unregistered trailer described in this paragraph perform such uses for hire; and

(8) any such vehicle moved on a highway by a towing service as defined in Section 59A-50-2 NMSA 1978.

B. A certificate of title required pursuant to Subsection A of this section is not required for a vehicle of a type subject to registration owned by:

(1) the government of the United States; or

(2) a carrier that is from a jurisdiction that is not a participant in the International Fuel Tax Agreement, that is authorized by the United States government or an agency of the United States government to conduct cross-border operations beyond the commercial border zone pursuant to the provisions of the North American Free Trade Agreement and that identifies New Mexico as the carrier's base jurisdiction.

C. Every manufactured home shall be subject to the registration and certificate of title provisions of the Motor Vehicle Code, and each manufactured home shall at all times bear a current registration plate."

## **Chapter 320 Section 2 Laws 2007**

Section 2. Section 66-3-4 NMSA 1978 (being Laws 1978, Chapter 35, Section 24, as amended) is amended to read:

"66-3-4. APPLICATION FOR REGISTRATION AND CERTIFICATE OF TITLE -- NONREPAIRABLE VEHICLE CERTIFICATE.--

A. Except for a vehicle owned by a carrier that is from a jurisdiction that is not a participant in the International Fuel Tax Agreement, that is authorized by the United States government or an agency of the United States government to conduct cross-border operations beyond the commercial border zone pursuant to the provisions of the North American Free Trade Agreement and that identifies New Mexico as the carrier's base jurisdiction, every owner of a vehicle of a type required to be registered in this state shall make application to the division for the registration and issuance of a certificate of title for the vehicle. Applications shall be upon the appropriate forms furnished by the division and shall bear the signature of the owner written with pen and ink. All applications presented to the division shall contain:

(1) for a vehicle other than a recreational vehicle, the name, bona fide New Mexico residence address and mail address of the owner or, if the owner is a firm, association or corporation, the name, bona fide New Mexico business address and mail address of the firm, association or corporation and for a recreational vehicle, the name, bona fide residence address and mail address of the owner and proof of delivery in New Mexico;

(2) a description of the vehicle including, to the extent that the following specified data may exist with respect to a given vehicle, the make, model, type of body,

number of cylinders, type of fuel used, serial number of the vehicle, odometer reading, engine or other identification number provided by the manufacturer of the vehicle, whether new or used and, if a vehicle not previously registered, date of sale by the manufacturer or dealer to the person intending to operate the vehicle. In the event a vehicle is designed, constructed, converted or rebuilt for the transportation of property, the application shall include a statement of its rated capacity as established by the manufacturer of the chassis or the complete vehicle;

(3) a statement of the applicant's title and of all liens or encumbrances upon the vehicle and the names and addresses of all persons having an interest in the vehicle, the nature of each interest and the name and address of the person to whom the certificate of title shall be delivered by the division;

(4) if the vehicle required to be registered is a house trailer, as defined in the Motor Vehicle Code, a certificate from the treasurer or assessor of the county in which the house trailer is located showing that either:

(a) all property taxes due or to become due on the house trailer for the current tax year or any past tax years have been paid; or

(b) no liability for property taxes on the house trailer exists for the current year or any past tax years; and

(5) further information as may reasonably be required by the division to enable it to determine whether the vehicle is lawfully entitled to registration and the owner entitled to a certificate of title.

B. The owner of a vehicle subject to registration that has never been registered in this state and that has been registered in another state shall have the vehicle examined and inspected for its identification number or engine number by the division or an officer or a designated agent of the division incident to securing registration, reregistration or a certificate of title from the division.

C. When an application refers to a vehicle not previously registered and the vehicle is purchased from a dealer licensed in this state or a dealer licensed or recognized as such in any other state, territory or possession of the United States, the application shall be accompanied by a manufacturer's certificate of origin duly assigned by the dealer to the purchaser. In the event that a vehicle not previously registered is sold by the manufacturer to a dealer in a state not requiring a manufacturer's certificate of origin and in the event that the vehicle is subsequently purchased by a dealer or any person in this state, the application for title shall be accompanied by the evidence of title accepted by the state in which the vehicle was sold by the manufacturer to a dealer in that state together with evidence of subsequent transfers.

D. Prior to the sale or disposal of a nonrepairable vehicle, the owner, owner's agent or salvage pool shall obtain a properly endorsed nonrepairable vehicle certificate

from the department and deliver it to the purchaser within twenty days after payment in full for the nonrepairable vehicle and shall also comply with Section 66-3-10.1 NMSA 1978. The department shall accept the endorsed nonrepairable vehicle certificate in lieu of the certificate of ownership or other evidence of ownership when accompanied by an application and other documents and fees as may be required by the department. A vehicle for which a nonrepairable vehicle certificate has been issued shall not be titled or registered for use on the highways of this state.

E. If an insurance company makes a total loss settlement on a nonrepairable vehicle and takes possession of that vehicle, either itself or through an agent or salvage pool, the insurance company or an authorized agent of the insurance company shall:

(1) stamp the face of the title or manufacturer's certificate of origin with the word "NONREPAIRABLE", in letters no less than one-half inch high, at an angle of approximately forty-five degrees to the text of the title or manufacturer's certificate of origin; and

(2) within twenty days after receipt of title by the insurer, free and clear of all liens, submit a copy of the branded title or manufacturer's certificate of title to the department together with documents explaining the reason for branding, and shall forward a properly endorsed certificate of title or manufacturer's certificate of origin or other evidence of ownership acceptable to the department together with the proper fee to the department. The department, upon receipt of the title or manufacturer's certificate of origin or other evidence of ownership, shall issue a nonrepairable vehicle certificate for the vehicle.

F. If an owner of a nonrepairable vehicle elects to retain possession of the vehicle, the insurance company shall notify the department of the retention on a form prescribed by the department. The insurance company shall also notify the insured or owner of the insured's or owner's responsibility to comply with this section. The owner shall, within twenty days from the date of settlement of the loss, forward a properly endorsed certificate of title or manufacturer's certificate of origin or other evidence of ownership acceptable to the department together with the proper fee to the department. The department, upon receipt of the title or manufacturer's certificate of origin or other evidence of ownership, shall issue a nonrepairable vehicle certificate for the vehicle.

G. If a nonrepairable vehicle is not the subject of an insurance settlement, the owner shall, within twenty days from the date of the loss, forward a properly endorsed certificate of title or manufacturer's certificate of origin or other evidence of ownership acceptable to the department together with the proper fee to the department. The department, upon receipt of the title or manufacturer's certificate of origin or other evidence of ownership, shall issue a nonrepairable vehicle certificate for the vehicle.

H. The department shall not issue a new registration card and certificate of ownership pursuant to Subsection A, B or C of this section on a vehicle that has been

issued a nonrepairable vehicle certificate pursuant to Subsections E, F and G of this section."

## **Chapter 320 Section 3 Laws 2007**

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 346

with emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 321**

AN ACT

RELATING TO MOTOR VEHICLES; REQUIRING DOMICILE IN NEW MEXICO FOR A PERSON TO BE ISSUED A COMMERCIAL DRIVER'S LICENSE; PROHIBITING MASKING OF TRAFFIC CONTROL LAW VIOLATIONS COMMITTED BY THE HOLDER OF A COMMERCIAL DRIVER'S LICENSE; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

## **Chapter 321 Section 1 Laws 2007**

Section 1. Section 66-1-4.3 NMSA 1978 (being Laws 1990, Chapter 120, Section 4, as amended) is amended to read:

"66-1-4.3. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "camping body" means a vehicle body primarily designed or converted for use as temporary living quarters for recreational, camping or travel activities;

B. "camping trailer" means a camping body, mounted on a chassis, or frame with wheels, designed to be drawn by another vehicle and that has collapsible partial side walls that fold for towing and unfold at the campsite;

C. "cancellation" means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to the

license, but cancellation of a license is without prejudice, and application for a new license may be made at any time after cancellation;

D. "casual sale" means the sale of a motor vehicle by the registered owner of the vehicle if the owner has not sold more than four vehicles in that calendar year;

E. "chassis" means the complete motor vehicle, including standard factory equipment, exclusive of the body and cab;

F. "collector" means a person who is the owner of one or more vehicles of historic or special interest who collects, purchases, acquires, trades or disposes of these vehicles or parts thereof for the person's own use in order to preserve, restore and maintain a similar vehicle for hobby purposes;

G. "combination" means any connected assemblage of a motor vehicle and one or more semitrailers, trailers or semitrailers converted to trailers by means of a converter gear;

H. "combination gross vehicle weight" means the sum total of the gross vehicle weights of all units of a combination;

I. "commerce" means the transportation of persons, property or merchandise for hire, compensation, profit or in the furtherance of a commercial enterprise in this state or between New Mexico and a place outside New Mexico, including a place outside the United States;

J. "commercial motor vehicle" means a

self-propelled or towed vehicle, other than special mobile equipment, used on public highways in commerce to transport passengers or property when the vehicle:

(1) is operated interstate and has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of four thousand five hundred thirty-six kilograms, or ten thousand one pounds or more; or is operated only in intrastate commerce and has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of twenty-

six thousand one or more pounds;

(2) is designed or used to transport more than eight passengers, including the driver, and is used to transport passengers for compensation;

(3) is designed or used to transport sixteen or more passengers, including the driver, and is not used to transport passengers for compensation; or

(4) is used to transport hazardous materials of the type or quantity requiring placarding under rules prescribed by applicable federal or state law;

K. "controlled-access highway" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway, street or roadway except at those points only and in the manner as may be determined by the public authority having jurisdiction over the highway, street or roadway;

L. "controlled substance" means any substance defined in Section 30-31-2 NMSA 1978 as a controlled substance;

M. "converter gear" means any assemblage of one or more axles with a fifth wheel mounted thereon, designed for use in a combination to support the front end of a semitrailer but not permanently attached thereto. A converter gear shall not be considered a vehicle, as that term is defined in Section 66-1-4.19 NMSA 1978, but weight attributable thereto shall be included in declared gross weight;

N. "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 if the person who has violated the law or failed to comply with the law holds a valid commercial driver's license;

(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; or

(6) an assignment to a diversion program or a driver improvement school;

O. "crosswalk" means:

(1) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway

measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; and

(2) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface; and

P. "curb cut" means a short ramp through a curb or built up to the curb."

## **Chapter 321 Section 2 Laws 2007**

Section 2. Section 66-1-4.16 NMSA 1978 (being Laws 1990, Chapter 120, Section 17, as amended) is amended to read:

"66-1-4.16. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "safety glazing materials" means glazing materials constructed, treated or combined with other materials to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they are cracked and broken;

B. "safety zone" means the area or space that is officially set apart within a highway for the exclusive use of pedestrians and that is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone;

C. "salvage vehicle" means a vehicle:

(1) other than a nonrepairable vehicle, of a type subject to registration that has been wrecked, destroyed or damaged excluding, pursuant to rules issued by the department, hail damage, to the extent that the owner, leasing company, financial institution or the insurance company that insured or is responsible for repair of the vehicle considers it uneconomical to repair the vehicle and that is subsequently not repaired by or for the person who owned the vehicle at the time of the event resulting in damage; or

(2) that was determined to be uneconomical to repair and for which a total loss payment is made by an insurer, whether or not the vehicle is subsequently repaired, if, prior to or upon making payment to the claimant, the insurer obtained the agreement of the claimant to the amount of the total loss settlement and informed the claimant that, pursuant to rules of the department, the title must be branded and submitted to the department for issuance of a salvage certificate of title for the vehicle;

D. "school bus" means a commercial motor vehicle used to transport preprimary, primary or secondary school students from home to school, from school to home or to and from school-sponsored events, but not including a vehicle:

(1) operated by a common carrier, subject to and meeting all requirements of the public regulation commission but not used exclusively for the transportation of students;

(2) operated solely by a government-owned transit authority, if the transit authority meets all safety requirements of the public regulation commission but is not used exclusively for the transportation of students; or

(3) operated as a per capita feeder as defined in Section 22-16-6 NMSA 1978;

E. "seal" means the official seal of the taxation and revenue department as designated by the secretary;

F. "secretary" means the secretary of taxation and revenue, and, except for the purposes of Sections 66-2-3

and 66-2-12 NMSA 1978, also includes the deputy secretary and any division director delegated by the secretary;

G. "semitrailer" means a vehicle without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some significant part of its weight and that of its load rests upon or is carried by another vehicle;

H. "sidewalk" means a portion of street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians;

I. "slow-moving vehicle" means a vehicle that is ordinarily moved, operated or driven at a speed less than twenty-five miles per hour;

J. "solid tire" means every tire of rubber or other resilient material that does not depend upon compressed air for the support of the load;

K. "special mobile equipment" means a vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including but not limited to farm tractors, road construction or maintenance machinery, ditch-digging apparatus, well-boring apparatus and concrete mixers;

L. "specially constructed vehicle" means a vehicle of a type required to be registered under the Motor Vehicle Code not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction;

M. "state" means a state, territory or possession of the United States, the District of Columbia or any state of the Republic of Mexico or the Federal District of Mexico or a province of the Dominion of Canada;

N. "state highway" means a public highway that has been designated as a state highway by the legislature, the state transportation commission or the secretary of transportation;

O. "stop", when required, means complete cessation from movement;

P. "stop, stopping or standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal;

Q. "street" or "highway" means a way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, even though it may be temporarily closed or restricted for the purpose of construction, maintenance, repair or reconstruction;

R. "subsequent offender" means a person who was previously a first offender and who again, under state law, federal law or a municipal ordinance or a tribal law, has been adjudicated guilty of the charge of driving a motor vehicle while under the influence of intoxicating liquor or any drug that rendered the person incapable of safely driving a motor vehicle, regardless of whether the person's sentence was suspended or deferred; and

S. "suspension" means that a person's driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn."

## **Chapter 321 Section 3 Laws 2007**

Section 3. Section 66-5-4 NMSA 1978 (being Laws 1978, Chapter 35, Section 226, as amended) is amended to read:

"66-5-4. PERSONS EXEMPT FROM LICENSURE.--The following persons are exempt from licensure under the Motor Vehicle Code:

A. military personnel while driving a motor vehicle owned or leased by the United States department of defense;

B. a person who is at least fifteen years of age and who has in immediate possession a valid driver's license issued to the person in the person's home state or country may drive a motor vehicle in this state, except that the person shall obtain a license upon becoming a resident and before the person is employed for compensation by another for the purpose of driving a motor vehicle;

C. a nonresident who is at least eighteen years of age whose home state or country does not require the licensing of drivers may drive a motor vehicle for a period of not more than one hundred eighty days in any calendar year if the motor vehicle driven is duly registered in the home state or country of the nonresident;

D. a driver of a farm tractor or implement of husbandry temporarily drawn, moved or propelled on the highway; and

E. a driver of an off-highway motorcycle."

## **Chapter 321 Section 4 Laws 2007**

Section 4. 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 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;

C. "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, which requires the motor vehicle to be placarded under applicable law;

D. "director" means the director of the motor vehicle division of the department;

E. "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;

F. "division" means the motor vehicle division of the department;

G. "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;

H. "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;

I. "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;

J. "fatality" means the death of a person as a result of a motor vehicle accident;

K. "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;

L. "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle;

M. "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;

N. "noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles that is not a commercial motor vehicle;

O. "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;

P. "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;

Q. "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 or rule pertaining to stopping at or crossing a railroad-highway grade crossing;

R. "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 woman 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) 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;

(9) driving a commercial motor vehicle without possession of a commercial driver's license in violation of Section 66-5-59 NMSA 1978;

(10) 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

(11) driving a commercial motor vehicle without obtaining a commercial driver's license in violation of Section 66-5-59 NMSA 1978; and

S. "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 321 Section 5 Laws 2007**

Section 5. Section 66-5-60 NMSA 1978 (being Laws 1989, Chapter 14, Section 9, as amended) is amended to read:

"66-5-60. COMMERCIAL DRIVER'S LICENSE--QUALIFICATIONS--STANDARDS.--

A. The division shall not issue a commercial driver's license to a person unless that person can establish that New Mexico is the person's state of domicile and has passed a knowledge and skills test for driving a commercial motor vehicle and for related endorsements, has passed a medical fitness test and has satisfied any other requirements of the New Mexico Commercial Driver's License Act.

B. The division may authorize a person, including an agency of this or another state, an employer, a private driver-training facility or other private institution or a department, agency or instrumentality of local government to administer the skills test specified by this section.

C. The director may waive the requirement of any test specified in this section for a commercial driver's license applicant who complies with the other provisions of the

New Mexico Commercial Driver's License Act through any pertinent rules, regulations or contractual agreements with the public education department, other governments or private entities.

D. A commercial driver's license applicant shall not take a test specified in this section more than three times within one year.

E. If the department determines that a commercial driver's license applicant has committed an offense in taking a test specified in this section, the division shall not issue a commercial driver's license to that applicant within one year of the department's determination."

## **Chapter 321 Section 6 Laws 2007**

Section 6. Section 66-5-65 NMSA 1978 (being Laws 1989, Chapter 14, Section 14, as amended) is amended to read:

"66-5-65. CLASSIFICATIONS--ENDORSEMENTS--RESTRICTIONS.--

A. Commercial driver's licenses may be issued with the classifications, endorsements and restrictions enumerated in Subsections B, C and D of this section, provided that the applicant has passed the knowledge and skills test required by the department. The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles and vehicles that require an endorsement, unless the proper endorsement appears on the license.

B. The following classifications shall apply to commercial driver's licenses:

(1) class A - any combination of vehicles with a gross combination weight rating of more than twenty-six thousand pounds, if the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of ten thousand pounds;

(2) class B - any single vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds and any such vehicle towing a vehicle with a gross vehicle weight rating of ten thousand pounds or less; and

(3) class C - any single vehicle or combination of vehicles that does not meet either the definition of Paragraph (1) or (2) of this subsection but is:

(a) designed to transport sixteen or more passengers, including the driver; or

(b) used in the transportation of hazardous materials, which requires the vehicle to be placarded under applicable law.

C. The secretary, by regulation, may provide for classifications in addition to those set forth in Subsection B of this section.

D. The following endorsements and restrictions shall apply to commercial driver's licenses:

- (1) "H" - authorizes driving a vehicle transporting hazardous material;
- (2) "L" - restricts the driver to vehicles not equipped with airbrakes;
- (3) "T" - authorizes driving a vehicle towing more than one trailer;
- (4) "P" - authorizes driving vehicles, other than school buses, carrying passengers;
- (5) "N" - authorizes driving tank vehicles;
- (6) "X" - represents a combination of the hazardous material ("H") and tank vehicle ("N") endorsements;
- (7) "S" - authorizes driving a school bus; and
- (8) "K" - restricts the driver to driving a commercial motor vehicle in intrastate commerce only.

E. The department shall require an applicant requesting a hazardous material ("H") endorsement to be subject to a background check pursuant to the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001. Information received pursuant to a background check required by the federal transportation security administration of the department of homeland security shall be kept confidential and shall be released only to the subject of the background check and the division. Fees charged for the background check shall be borne by the subject of the background check or by the employer."

## **Chapter 321 Section 7 Laws 2007**

Section 7. Section 66-5-67 NMSA 1978 (being Laws 1989, Chapter 14, Section 16, as amended) is amended to read:

"66-5-67. EXPIRATION AND RENEWAL--STAGGERED LICENSING DURING IMPLEMENTATION PERIOD.--

A. Except as provided in Subsections C and E of this section, a commercial driver's license issued pursuant to the provisions of the New Mexico Commercial Driver's License Act shall expire thirty days after the applicant's birthday in the fourth year after the effective date of the license.

B. The license is renewable within ninety days prior to its expiration or at an earlier date as approved by the secretary.

C. At the option of an applicant, a commercial driver's license may be issued for a period of eight years, provided that the applicant:

(1) pays the amount required for a commercial driver's license issued for a term of eight years;

(2) otherwise qualifies for a four-year commercial driver's license; and

(3) will not reach the age of seventy-five during the last four years of the eight-year license period.

D. A driver's license issued pursuant to the provisions of Subsection C of this section shall expire thirty days after the applicant's birthday in the eighth year after the effective date of the license.

E. A commercial driver's license with a hazardous material endorsement shall expire:

(1) for an applicant transferring a commercial driver's license with the hazardous material endorsement, four years from the date of the last background check and testing for the hazardous material endorsement; or

(2) for an applicant adding endorsements or other changes to the commercial driver's license, no later than the expiration date of the commercial driver's license originally issued with the hazardous material endorsement."

## **Chapter 321 Section 8 Laws 2007**

Section 8. Section 66-5-68 NMSA 1978 (being Laws 1989, Chapter 14, Section 17, as amended by Laws 2005, Chapter 310, Section 3 and by Laws 2005, Chapter 312, Section 7) 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 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 regulations 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 uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance or the possession with intent to manufacture, distribute or dispense 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 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. The department shall disqualify a person from driving a commercial motor vehicle for a period of 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 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 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 321 Section 9 Laws 2007**

Section 9. A new section of the New Mexico Commercial Driver's License Act is enacted to read:

"VIOLATION CONVICTIONS--ACTIONS TO MASK, DEFER OR DIVERT--PROHIBITED.--

A. A person shall take no action to prevent a conviction of a traffic control law violation from appearing on the driving record of a commercial driver's license holder, regardless of the vehicle or state in which the violation occurred, including:

(1) masking or deferring imposition of a judgment of a traffic control law violation committed by a holder of a commercial driver's license; or

(2) allowing a holder of a commercial driver's license to enter a diversion program upon conviction of a traffic control law violation.

B. As used in this section, "traffic control law violation" does not include a parking violation."

## **Chapter 321 Section 10 Laws 2007**

Section 10. Section 66-8-102 NMSA 1978 (being Laws 1953, Chapter 139, Section 54, as amended by Laws 2005, Chapter 241, Section 5 and by Laws 2005, Chapter 269, Section 5) is amended to read:

"66-8-102. PERSONS UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--AGGRAVATED DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--PENALTY.--

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 who has an alcohol concentration of eight one hundredths or more in the person's blood or breath to drive a vehicle within this state; or

(2) a person who has an alcohol concentration of four one hundredths or more in the person's blood or breath to drive a commercial motor vehicle within this state.

D. Aggravated driving while under the influence of intoxicating liquor or drugs consists of a person who:

(1) has an alcohol concentration of sixteen one hundredths or more in the person's blood or breath while driving a vehicle within this state;

(2) has caused 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) refused 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, was under the influence of intoxicating liquor or drugs.

E. A person under 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 and not more than forty-eight hours of community service. In addition, the offender may be required to pay a fine of three hundred dollars (\$300). The offender shall be ordered by the court to participate in and complete a screening program described in Subsection K of this section and to attend a driver rehabilitation program for alcohol or drugs, also known as a "DWI school", approved by the bureau and also may be required to participate in other rehabilitative services as the court shall determine to be necessary. In addition to those penalties, when an offender commits aggravated driving while 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 while 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, 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 while 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, 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 while under the influence of intoxicating liquor or drugs, the offender shall be sentenced to a jail term of not less than sixty consecutive days. If an offender fails to complete, within a time specified by the court, any community service, screening program or treatment program ordered by the court, the offender shall be sentenced to not less than an additional sixty consecutive days in jail. A penalty imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement.

G. Upon a fourth conviction pursuant to this section, an offender is guilty of a fourth degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of eighteen months, six months of which shall not be suspended, deferred or taken under advisement.

H. Upon a fifth conviction pursuant to this section, an offender is guilty of a fourth degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of two years, one year of which shall not be suspended, deferred or taken under advisement.

I. Upon a sixth conviction pursuant to this section, an offender is guilty of a third degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of thirty months, eighteen months of which shall not be suspended, deferred or taken under advisement.

J. Upon a seventh or subsequent conviction pursuant to this section, an offender is guilty of a third degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of three years, two years of which shall not be suspended, deferred or taken under advisement.

K. Upon any conviction pursuant to this section, an offender shall be required to participate in and complete, within a time specified by the court, an alcohol or drug abuse screening program approved by the department of finance and administration and, if necessary, a treatment program approved by the court. The requirement imposed pursuant to this subsection shall not be suspended, deferred or taken under advisement.

L. Upon a second or third conviction pursuant to this section, an offender shall be required to participate in and complete, within a time specified by the court:

- (1) not less than a twenty-eight-day inpatient, residential or in-custody substance abuse treatment program approved by the court;
- (2) not less than a ninety-day outpatient treatment program approved by the court;
- (3) a drug court program approved by the court; or
- (4) any other substance abuse treatment program approved by the court.

The requirement imposed pursuant to this subsection shall not be suspended, deferred or taken under advisement.

M. Upon a felony conviction pursuant to this section, the corrections department shall provide substance abuse counseling and treatment to the offender in its custody. While the offender is on probation or parole under its supervision, the corrections department shall also provide substance abuse counseling and treatment to the offender or shall require the offender to obtain substance abuse counseling and treatment.

N. Upon a conviction pursuant to this section, an offender shall be required to obtain an ignition interlock license and have an ignition interlock device installed and operating on all motor vehicles driven by the offender, pursuant to rules adopted by the bureau. Unless determined by the sentencing court to be indigent, the offender shall pay all costs associated with having an ignition interlock device installed on the appropriate motor vehicles. The offender shall operate only those vehicles equipped with ignition interlock devices for:

- (1) a period of one year, for a first offender;
- (2) a period of two years, for a second conviction pursuant to this section;
- (3) a period of three years, for a third conviction pursuant to this section;

or

(4) the remainder of the offender's life, for a fourth or subsequent conviction pursuant to this section.

O. Five years from the date of conviction and every five years thereafter, a fourth or subsequent offender may apply to a district court for removal of the ignition interlock device requirement provided in this section and for restoration of a driver's license. A district court may, for good cause shown, remove the ignition interlock device requirement and order restoration of the license; provided that the offender has not been subsequently convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs. Good cause may include an alcohol screening and proof from the interlock vendor that the person has not had violations of the interlock device.

P. 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.

Q. 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 while under the influence of intoxicating liquor or drugs, and prescribes penalties for driving while 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.

R. 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.

S. 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.

T. 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 321 Section 11 Laws 2007**

Section 11. Section 66-8-135 NMSA 1978 (being Laws 1978, Chapter 35, Section 543, as amended) is amended to read:

"66-8-135. RECORD OF TRAFFIC CASES.--

A. Every trial court judge shall keep a record of every traffic complaint, uniform traffic citation and other form of traffic charge filed in the judge's court or its traffic violations bureau and every official action and disposition of the charge by that court.

B. Within ten days of the later of entry of judgment and sentence or failure to appear on a charge of violating the Motor Vehicle Code or other law or ordinance relating to motor vehicles or the final decision of any higher court that reviews the matter and from which no appeal or review is successfully taken, every trial court judge, including children's court judges, or the clerk of the court in which the entry of judgment and sentence or failure to appear occurred shall prepare and forward to the department an abstract of the record containing:

(1) the name and address of the defendant;

(2) the specific section number and common name of the provision of the NMSA 1978 or local law, ordinance or regulation under which the defendant was tried;

(3) the plea, finding of the court and disposition of the charge, including fine or jail sentence or both, forfeiture of bail or dismissal of the charge;

(4) an itemization of costs assessed to the defendant;

(5) the date of the hearing;

(6) the court's name and address;

(7) whether the defendant was a first or subsequent offender; and

(8) whether the defendant was represented by counsel or waived the right to counsel and, if represented, the name and address of counsel.

C. The abstract of record prepared and forwarded under Subsection B of this section shall be certified as correct by the person required to prepare it. With the prior approval of the department, the information required by Subsection B of this section may be transmitted electronically to the department. Report need not be made of any disposition of a charge of illegal parking or standing of a vehicle except when the uniform traffic citation is used.

D. When the uniform traffic citation is used, the court shall provide the information required by Subsection B of this section in the manner prescribed by the department.

E. Every court of record shall also forward a like report to the department upon conviction of any person of any felony if a motor vehicle was used in the commission. With the prior approval of the department, the information required by this subsection may be submitted electronically to the department. The report shall be forwarded to the department within ten days of the final decision of the court or of any higher court that reviews the matter and from which the decision of no appeal or review is successfully taken.

F. The failure or refusal of any judicial officer to comply with this section is misconduct in office and grounds for removal.

G. Except as set forth in Subsection H of this section for records of a person holding a commercial driver's license, the department shall keep records received on motorists licensed in this state at its main office. Records showing a record of conviction by a court of law shall be open to public inspection during business hours for three years from the date of their receipt, after which they shall be destroyed by the department except for records of convictions under Sections 66-8-101 through 66-8-112 NMSA 1978, which may not be destroyed until fifty-five years from the date of their receipt. Any record received on a motorist licensed in another state or country shall be forwarded to the licensing authority of that state or country.

H. The department shall keep records received on a person holding a commercial driver's license in its main office. Records showing a record of conviction by a court of law shall be open to public inspection during business hours for fifty-five years from the date of their receipt. Any record received on a person holding a commercial driver's license licensed in another state or country shall be forwarded to the licensing authority of that state or country."

## **Chapter 321 Section 12 Laws 2007**

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

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House Bill 491, as amended

with emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 322**

### **AN ACT**

RELATING TO CRIMINAL LAW; MODIFYING THE CRIME OF DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR TO ALLOW THREE HOURS FOR THE ADMINISTRATION OF A CHEMICAL TEST TO DETERMINE ALCOHOL CONCENTRATION; PROVIDING FOR THE ADMISSIBILITY OF CHEMICAL TESTS TAKEN MORE THAN THREE HOURS AFTER DRIVING; ESTABLISHING MINIMUM HOURS FOR COMMUNITY SERVICE; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005; DECLARING AN EMERGENCY.

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

### **Chapter 322 Section 1 Laws 2007**

Section 1. Section 66-8-102 NMSA 1978 (being Laws 1953, Chapter 139, Section 54, as amended by Laws 2005, Chapter 241, Section 5 and by Laws 2005, Chapter 269, Section 5) is amended to read:

"66-8-102. PERSONS UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--AGGRAVATED DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--PENALTY.--

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 while under the influence of intoxicating liquor or drugs consists of a person who:

(1) drives a vehicle in this state and has an alcohol concentration of sixteen 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;

(2) has caused 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) refused 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, was under the influence of intoxicating liquor or drugs.

E. A person under first conviction pursuant to this section shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than ninety days or by a fine of not more than five hundred dollars (\$500), or both; provided that if the sentence is suspended in whole or in part or deferred, the period of probation may extend beyond ninety days but shall not exceed one year. Upon a first conviction pursuant to this section, an offender shall be sentenced to not less than twenty-

four hours of community service. In addition, the offender may be required to pay a fine of three hundred dollars (\$300). The offender shall be ordered by the court to participate in and complete a screening program described in Subsection K of this section and to attend a driver rehabilitation program for alcohol or drugs, also known as a "DWI school", approved by the bureau and also may be required to participate in other rehabilitative services as the court shall determine to be necessary. In addition to those penalties, when an offender commits aggravated driving while 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 while 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 while 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 while under the influence of intoxicating liquor or drugs, the offender shall be sentenced to a jail term of not less than sixty consecutive days. If an offender fails to complete, within a time specified by the court, any community service, screening program or treatment program ordered by the court, the offender shall be sentenced to not less than an additional sixty consecutive days in jail. A penalty imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement.

G. Upon a fourth conviction pursuant to this section, an offender is guilty of a fourth degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of eighteen months, six months of which shall not be suspended, deferred or taken under advisement.

H. Upon a fifth conviction pursuant to this section, an offender is guilty of a fourth degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of two years, one year of which shall not be suspended, deferred or taken under advisement.

I. Upon a sixth conviction pursuant to this section, an offender is guilty of a third degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of thirty months, eighteen months of which shall not be suspended, deferred or taken under advisement.

J. Upon a seventh or subsequent conviction pursuant to this section, an offender is guilty of a third degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of three years, two years of which shall not be suspended, deferred or taken under advisement.

K. Upon any conviction pursuant to this section, an offender shall be required to participate in and complete, within a time specified by the court, an alcohol or drug abuse screening program approved by the department of finance and administration and, if necessary, a treatment program approved by the court. The requirement imposed pursuant to this subsection shall not be suspended, deferred or taken under advisement.

L. Upon a second or third conviction pursuant to this section, an offender shall be required to participate in and complete, within a time specified by the court:

(1) not less than a twenty-eight-day inpatient, residential or in-custody substance abuse treatment program approved by the court;

(2) not less than a ninety-day outpatient treatment program approved by the court;

(3) a drug court program approved by the court; or

(4) any other substance abuse treatment program approved by the court.

The requirement imposed pursuant to this subsection shall not be suspended, deferred or taken under advisement.

M. Upon a felony conviction pursuant to this section, the corrections department shall provide substance abuse counseling and treatment to the offender in its custody. While the offender is on probation or parole under its supervision, the corrections department shall also provide substance abuse counseling and treatment to the offender or shall require the offender to obtain substance abuse counseling and treatment.

N. Upon a conviction pursuant to this section, an offender shall be required to obtain an ignition interlock license and have an ignition interlock device installed and operating on all motor vehicles driven by the offender, pursuant to rules adopted by the bureau. Unless determined by the sentencing court to be indigent, the offender shall pay all costs associated with having an ignition interlock device installed on the appropriate motor vehicles. The offender shall operate only those vehicles equipped with ignition interlock devices for:

- (1) a period of one year, for a first offender;
- (2) a period of two years, for a second conviction pursuant to this section;
- (3) a period of three years, for a third conviction pursuant to this section;

or

(4) the remainder of the offender's life, for a fourth or subsequent conviction pursuant to this section.

O. Five years from the date of conviction and every five years thereafter, a fourth or subsequent offender may apply to a district court for removal of the ignition interlock device requirement provided in this section and for restoration of a driver's license. A district court may, for good cause shown, remove the ignition interlock device requirement and order restoration of the license; provided that the offender has not been subsequently convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs. Good cause may include an alcohol screening and proof from the interlock vendor that the person has not had violations of the interlock device.

P. 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.

Q. 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 while under the influence of intoxicating liquor or drugs, and prescribes penalties for driving while 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.

R. 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.

S. 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.

T. 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;

(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; and

(3) "conviction" means an adjudication of guilt and does not include imposition of a sentence."

## **Chapter 322 Section 2 Laws 2007**

Section 2. Section 66-8-110 NMSA 1978 (being Laws 1978, Chapter 35, Section 518, as amended by Laws 2003, Chapter 51, Section 12 and by Laws 2003, Chapter 90, Section 5) is amended to read:

"66-8-110. USE OF TESTS IN CRIMINAL ACTIONS OR CIVIL ACTIONS--  
LEVELS OF INTOXICATION--MANDATORY CHARGING.--

A. The results of a test performed pursuant to the Implied Consent Act may be introduced into evidence in any civil action or criminal action arising out of the acts alleged to have been committed by the person tested for driving a motor vehicle while under the influence of intoxicating liquor or drugs.

B. When the blood or breath of the person tested contains:

(1) an alcohol concentration of less than four one hundredths, it shall be presumed that the person was not under the influence of intoxicating liquor;

(2) an alcohol concentration of at least four one hundredths but less than eight one hundredths:

(a) no presumption shall be made that the person either was or was not under the influence of intoxicating liquor, unless the person is driving a commercial motor vehicle; and

(b) the amount of alcohol in the person's blood or breath may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor; or

(3) an alcohol concentration of four one hundredths or more and the person is driving a commercial vehicle, it shall be presumed that the person is under the influence of intoxicating liquor.

C. The arresting officer shall charge the person tested with a violation of Section 66-8-102 NMSA 1978 when the blood or breath of the person contains an alcohol concentration of:

(1) eight one hundredths or more; or

(2) four one hundredths or more if the person is driving a commercial motor vehicle.

D. When a person is less than twenty-one years of age and the blood or breath of the person contains an alcohol concentration of two one hundredths or more, the person's driving privileges shall be revoked pursuant to the provisions of the Implied Consent Act.

E. If the test performed pursuant to the Implied Consent Act is administered more than three hours after the person was driving a vehicle, the test result may be introduced as evidence of the alcohol concentration in the person's blood or breath at the time of the test and the trier of fact shall determine what weight to give the test result for the purpose of determining a violation of Section 66-8-102 NMSA 1978.

F. The determination of alcohol concentration shall be based on the grams of alcohol in one hundred milliliters of blood or the grams of alcohol in two hundred ten liters of breath.

G. The presumptions in Subsection B of this section do not limit the introduction of other competent evidence concerning whether the person was under the influence of intoxicating liquor.

H. If a person is convicted of driving a motor vehicle while under the influence of intoxicating liquor, the trial judge shall inquire into the past driving record of the person before sentence is entered in the matter."

### **Chapter 322 Section 3 Laws 2007**

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

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Senate Judiciary Committee Substitute

for Senate Bill 440, as amended

with emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 323**

AN ACT

RELATING TO ANATOMICAL GIFTS; ENACTING THE JONATHAN SPRADLING REVISED UNIFORM ANATOMICAL GIFT ACT; REVISING STATUTORY REFERENCES; RECOMPILING AND REPEALING SECTIONS OF THE UNIFORM ANATOMICAL GIFT ACT; PROVIDING PENALTIES.

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

### **Chapter 323 Section 1 Laws 2007**

Section 1. SHORT TITLE.--Sections 1 through 25 of this act may be cited as the "Jonathan Spradling Revised Uniform Anatomical Gift Act".

### **Chapter 323 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the Jonathan Spradling Revised Uniform Anatomical Gift Act:

- A. "adult" means an individual who is at least sixteen years of age;
- B. "agent" means an individual:

(1) authorized to make health care decisions on the principal's behalf by a power of attorney for health

care; or

(2) expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal;

C. "anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research or education;

D. "decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. "Decedent" includes a stillborn infant and, subject to restrictions imposed by law other than the Jonathan Spradling Revised Uniform Anatomical Gift Act, a fetus but not including a fetus that is the subject of an induced abortion;

E. "disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent or guardian of the individual who makes, amends, revokes or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. "Disinterested witness" does not include a person to which an anatomical gift could pass pursuant to Section 11 of the Jonathan Spradling Revised Uniform Anatomical Gift Act;

F. "document of gift" means a donor card or other record used to make an anatomical gift. "Document of gift" includes a statement or symbol on a driver's license, identification card or donor registry;

G. "donor" means an individual whose body or part is the subject of an anatomical gift;

H. "donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts;

I. "driver's license" means a license or permit issued by the motor vehicle division of the taxation and revenue department to operate a vehicle, whether or not conditions are attached to the license or permit;

J. "eye bank" means a person that is licensed, accredited or regulated pursuant to federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of human eyes or portions of human eyes;

K. "guardian" means a person appointed by a court to make decisions regarding the support, care, education, health or welfare of an individual. "Guardian" does not include a guardian ad litem;

L. "hospital" means a facility licensed as a hospital pursuant to the law of any state or a facility operated as a hospital by the United States, a state or a subdivision of a state;

M. "identification card" means an identification card issued by the motor vehicle division of the taxation and revenue department;

N. "know" means to have actual knowledge;

O. "minor" means an individual who is under eighteen years of age;

P. "organ procurement organization" means a person designated by the secretary of the federal department of health and human services as an organ procurement organization;

Q. "parent" means a parent whose parental rights have not been terminated;

R. "part" means an organ, an eye or tissue of a human being. "Part" does not include the whole body;

S. "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity;

T. "physician" means an individual authorized to practice medicine or osteopathy pursuant to the law of any state;

U. "power of attorney for health care" includes an advance health-care directive as defined in the Uniform Health-Care Decisions Act;

V. "procurement organization" means an eye bank, organ procurement organization or tissue bank;

W. "prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research or education. "Prospective donor" does not include an individual who has made a refusal;

X. "reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift;

Y. "recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted;

Z. "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;

AA. "refusal" means a record created pursuant to Section 7 of the Jonathan Spradling Revised Uniform Anatomical Gift Act that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part;

BB. "sign" means, with the 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;

CC. "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;

DD. "technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited or regulated pursuant to federal or state law. "Technician" includes an enucleator;

EE. "tissue" means a portion of the human body other than an organ or an eye. "Tissue" does not include blood unless the blood is donated for the purpose of research or education;

FF. "tissue bank" means a person that is licensed, accredited or regulated pursuant to federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of tissue; and

GG. "transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

## **Chapter 323 Section 3 Laws 2007**

Section 3. APPLICABILITY.--The Jonathan Spradling Revised Uniform Anatomical Gift Act applies to an anatomical gift or amendment to, revocation of or refusal to make an anatomical gift, whenever made.

## **Chapter 323 Section 4 Laws 2007**

Section 4. WHO MAY MAKE ANATOMICAL GIFT BEFORE DONOR'S DEATH.-- Subject to the provisions of Section 8 of the Jonathan Spradling Revised Uniform Anatomical Gift Act, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research or education in

the manner provided in Section 5 of the Jonathan Spradling Revised Uniform Anatomical Gift Act by:

A. the donor, if the donor is an adult or if the donor is a minor and is:

(1) emancipated; or

(2) authorized pursuant to state law to apply for an instruction permit because the donor is at least fifteen years of age;

B. an agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

C. a parent of the donor, if the donor is an unemancipated minor; or

D. the donor's guardian.

## **Chapter 323 Section 5 Laws 2007**

Section 5. MANNER OF MAKING ANATOMICAL GIFT BEFORE DONOR'S DEATH.--

A. A donor may make an anatomical gift:

(1) by authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(2) in a will;

(3) during a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(4) as provided in Subsection B of this section.

B. A donor or other person authorized to make an anatomical gift pursuant to Section 4 of the Jonathan Spradling Revised Uniform Anatomical Gift Act may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) state that it has been signed and witnessed as provided in Paragraph (1) of this subsection.

C. Revocation, suspension, expiration or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

D. An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the anatomical gift.

## **Chapter 323 Section 6 Laws 2007**

### **Section 6. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE DONOR'S DEATH.--**

A. Subject to the provisions of Section 8 of the Jonathan Spradling Revised Uniform Anatomical Gift Act, a donor or other person authorized to make an anatomical gift pursuant to Section 4 of that act may amend or revoke an anatomical gift by:

(1) a record signed by:

(a) the donor;

(b) the other person; or

(c) subject to the provisions of Subsection B of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(2) a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

B. A record signed pursuant to Subparagraph (c) of Paragraph (1) of Subsection A of this section shall:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) state that it has been signed and witnessed as provided in Paragraph (1) of this subsection.

C. Subject to the provisions of Section 8 of the Jonathan Spradling Revised Uniform Anatomical Gift Act, a donor or other person authorized to make an anatomical gift pursuant to Section 4 of that act may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

D. A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

E. A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in Subsection A of this section.

## **Chapter 323 Section 7 Laws 2007**

### **Section 7. REFUSAL TO MAKE ANATOMICAL GIFT--EFFECT OF REFUSAL.--**

A. An individual may refuse to make an anatomical gift of the individual's body or part by:

(1) a record signed by:

(a) the individual; or

(b) subject to the provisions of Subsection B of this section, another individual acting at the direction of the individual if the individual is physically unable to sign;

(2) the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(3) any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

B. A record signed pursuant to Subparagraph (b) of Paragraph (1) of Subsection A of this section shall:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(2) state that it has been signed and witnessed as provided in Paragraph (1) of this subsection.

C. An individual who has made a refusal may amend or revoke the refusal:

(1) in the manner provided in Subsection A of this section for making a refusal;

(2) by subsequently making an anatomical gift pursuant to Section 5 of the Jonathan Spradling Revised Uniform Anatomical Gift Act that is inconsistent with the refusal; or

(3) by destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

D. Except as otherwise provided in Subsection H of Section 8 of the Jonathan Spradling Revised Uniform Anatomical Gift Act, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

## **Chapter 323 Section 8 Laws 2007**

### **Section 8. PRECLUSIVE EFFECT OF ANATOMICAL GIFT, AMENDMENT OR REVOCATION.--**

A. Except as otherwise provided in Subsection G of this section and subject to the provisions of Subsection F of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part pursuant to Section 5 of the Jonathan Spradling Revised Uniform Anatomical Gift Act or an amendment to an anatomical gift of the donor's body or part pursuant to Section 6 of that act.

B. A donor's revocation of an anatomical gift of the donor's body or part pursuant to Section 6 of the Jonathan Spradling Revised Uniform Anatomical Gift Act is not a refusal and does not bar another person specified in Section 4 or 9 of that act from making an anatomical gift of the donor's body or part pursuant to Section 5 or 10 of that act.

C. If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part pursuant to Section 5 of the Jonathan Spradling Revised Uniform Anatomical Gift Act or an amendment to an anatomical gift of the donor's body or part pursuant to Section 6 of that act, another person may not make, amend or revoke the gift of the donor's body or part pursuant to Section 10 of that act.

D. A revocation of an anatomical gift of a donor's body or part pursuant to Section 6 of the Jonathan Spradling Revised Uniform Anatomical Gift Act by a person other than the donor does not bar another person from making an anatomical gift of the body or part pursuant to Section 5 or 10 of that act.

E. In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift pursuant to Section 4 of the Jonathan Spradling Revised Uniform Anatomical Gift Act, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

F. In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift pursuant to Section 4 of the Jonathan Spradling Revised Uniform Anatomical Gift Act, an anatomical gift of a part for one or more of the purposes set forth in Section 4 of that act is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person pursuant to Section 5 or 10 of that act.

G. If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

H. If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

## **Chapter 323 Section 9 Laws 2007**

### **Section 9. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S BODY OR PART.--**

A. Subject to the provisions of Subsections B and C of this section and unless barred by Section 7 or 8 of the Jonathan Spradling Revised Uniform Anatomical Gift Act, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(1) an agent of the decedent at the time of death who could have made an anatomical gift pursuant to Subsection B of Section 4 of the Jonathan Spradling Revised Uniform Anatomical Gift Act immediately before the decedent's death;

(2) the spouse of the decedent unless legally separated or unless there is a pending action for annulment, divorce, dissolution of marriage or separation;

(3) adult children of the decedent;

(4) parents of the decedent;

(5) adult siblings of the decedent;

(6) adult grandchildren of the decedent;

(7) grandparents of the decedent;

(8) an adult who exhibited special care and concern for the decedent;

(9) the persons who were acting as the guardians of the person of the decedent at the time of death; and

(10) any other person having the authority to dispose of the decedent's body.

B. If there is more than one member of a class listed in Paragraphs (1), (3), (4), (5), (6), (7) and (9) of Subsection A of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass pursuant to Section 11 of the Jonathan Spradling Revised Uniform Anatomical Gift Act knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

C. A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class pursuant to Subsection A of this section is reasonably available to make or to object to the making of an anatomical gift.

## **Chapter 323 Section 10 Laws 2007**

### **Section 10. MANNER OF MAKING, AMENDING OR REVOKING ANATOMICAL GIFT OF DECEDENT'S BODY OR PART.--**

A. A person authorized to make an anatomical gift pursuant to Section 9 of the Jonathan Spradling Revised Uniform Anatomical Gift Act may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

B. Subject to the provisions of Subsection C of this section, an anatomical gift by a person authorized pursuant to Section 9 of the Jonathan Spradling Revised Uniform Anatomical Gift Act may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized pursuant to Section 9 of that act may be:

(1) amended only if a majority of the reasonably available members agree to the amending of the gift; or

(2) revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

C. A revocation pursuant to Subsection B of this section is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital or physician or technician knows of the revocation.

## **Chapter 323 Section 11 Laws 2007**

### **Section 11. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT--PURPOSE OF ANATOMICAL GIFT.--**

A. An anatomical gift may be made to the following persons named in the document of gift:

(1) a hospital; accredited medical school, dental school, college or university; organ procurement organization; or other appropriate person, for research or education;

(2) subject to the provisions of Subsection B of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part; and

(3) an eye bank or tissue bank.

B. If an anatomical gift to an individual pursuant to Paragraph (2) of Subsection A of this section cannot be transplanted into the individual, the part passes in accordance with Subsection G of this section in the absence of an express, contrary indication by the person making the anatomical gift.

C. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in Subsection A of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) if the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank;

(2) if the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank;

(3) if the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ; and

(4) if the part is an organ, an eye or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

D. For the purpose of Subsection C of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

E. If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in Subsection A of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with Subsection G of this section.

F. If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor" or "body donor", or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy and the gift passes in accordance with Subsection G of this section.

G. For purposes of Subsections B, E and F of this section the following rules apply:

(1) if the part is an eye, the gift passes to the appropriate eye bank;

(2) if the part is tissue, the gift passes to the appropriate tissue bank; and

(3) if the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

H. An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift pursuant to Paragraph (2) of Subsection A of this section, passes to the organ procurement organization as custodian of the organ.

I. If an anatomical gift does not pass pursuant to Subsections A through H of this section or the decedent's body or part is not used for transplantation, therapy, research or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

J. A person may not accept an anatomical gift if the person knows that the gift was not effectively made pursuant to Section 5 or 10 of the Jonathan Spradling Revised Uniform Anatomical Gift Act or if the person knows that the decedent made a refusal pursuant to Section 7 of that act that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

K. Except as otherwise provided in Paragraph (2) of Subsection A of this section, nothing in the Jonathan Spradling Revised Uniform Anatomical Gift Act affects the allocation of organs for transplantation or therapy.

## **Chapter 323 Section 12 Laws 2007**

### Section 12. SEARCH AND NOTIFICATION.--

A. The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(1) a law enforcement officer, firefighter, paramedic or other emergency rescuer finding the individual; and

(2) if no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

B. If a document of gift or a refusal to make an anatomical gift is located by the search required by Paragraph (1) of Subsection A of this section and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

C. A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

## **Chapter 323 Section 13 Laws 2007**

### Section 13. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED--RIGHT TO EXAMINE.--

A. A document of gift need not be delivered during the donor's lifetime to be effective.

B. Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass pursuant to Section 11 of the Jonathan Spradling Revised Uniform Anatomical Gift Act.

## **Chapter 323 Section 14 Laws 2007**

### Section 14. RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATION AND OTHERS.--

A. When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the motor vehicle division of the taxation and revenue department and any donor registry

that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

B. A procurement organization shall be allowed reasonable access to information in the records of the motor vehicle division of the taxation and revenue department to ascertain whether an individual at or near death is a donor.

C. When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

D. Unless prohibited by law other than the Jonathan Spradling Revised Uniform Anatomical Gift Act, at any time after a donor's death, the person to which a part passes pursuant to Section 11 of that act may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

E. Unless prohibited by law other than the Jonathan Spradling Revised Uniform Anatomical Gift Act, an examination pursuant to Subsection C or D of this section may include an examination of all medical and dental records of the donor or prospective donor.

F. Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

G. Upon referral by a hospital pursuant to Subsection A of this section, a procurement organization shall make a reasonable search for any person listed in Section 9 of the Jonathan Spradling Revised Uniform Anatomical Gift Act having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended or revoked, it shall promptly advise the other person of all relevant information.

H. Subject to the provisions of Subsection I of Section 11 and Section 23 of the Jonathan Spradling Revised Uniform Anatomical Gift Act, the rights of the person to which a part passes pursuant to Section 11 of that act are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and the Jonathan Spradling Revised Uniform Anatomical Gift Act, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral

service. If the gift is of a part, the person to which the part passes pursuant to Section 11 of the Jonathan Spradling Revised Uniform Anatomical Gift Act, upon the death of the donor and before embalming, burial or cremation, shall cause the part to be removed without unnecessary mutilation.

I. Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

J. A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

### **Chapter 323 Section 15 Laws 2007**

Section 15. COORDINATION OF PROCUREMENT AND USE.--Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

### **Chapter 323 Section 16 Laws 2007**

Section 16. SALE OR PURCHASE OF PARTS PROHIBITED.--

A. Except as otherwise provided in Subsection B of this section, a person who for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a third degree felony and upon conviction is subject to a fine not exceeding five thousand dollars (\$5,000) or imprisonment not exceeding six years, or both.

B. A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation or disposal of a part.

### **Chapter 323 Section 17 Laws 2007**

Section 17. OTHER PROHIBITED ACTS.--A person who, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal, commits a third degree felony and upon conviction is subject to a fine not exceeding five thousand dollars (\$5,000) or imprisonment not exceeding six years, or both.

### **Chapter 323 Section 18 Laws 2007**

Section 18. IMMUNITY.--

A. A person that acts in accordance with the Jonathan Spradling Revised Uniform Anatomical Gift Act or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution or administrative proceeding.

B. Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

C. In determining whether an anatomical gift has been made, amended or revoked pursuant to the Jonathan Spradling Revised Uniform Anatomical Gift Act, a person may rely upon representations of an individual listed in Paragraph (2), (3), (4), (5), (6), (7) or (8) of Subsection A of Section 9 of that act relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

## **Chapter 323 Section 19 Laws 2007**

Section 19. LAW GOVERNING VALIDITY--CHOICE OF LAW AS TO EXECUTION OF DOCUMENT OF GIFT--PRESUMPTION OF VALIDITY.--

A. A document of gift is valid if executed in accordance with:

(1) the Jonathan Spradling Revised Uniform Anatomical Gift Act;

(2) the laws of the state or country where it was executed; or

(3) the laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence or was a national at the time the document of gift was executed.

B. If a document of gift is valid pursuant to this section, the law of this state governs the interpretation of the document of gift.

C. A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

## **Chapter 323 Section 20 Laws 2007**

Section 20. DONOR REGISTRY.--

A. The motor vehicle division of the taxation and revenue department shall establish a donor registry pursuant to the provisions of Subsection B of Section 66-5-10 NMSA 1978.

B. The motor vehicle division of the taxation and revenue department shall cooperate with a person that administers any donor registry that this state establishes, contracts for or recognizes for the purpose of transferring to the donor registry all relevant information regarding a donor's making, amendment to or revocation of an anatomical gift.

C. A donor registry shall:

(1) allow a donor or other person authorized pursuant to Section 4 of the Jonathan Spradling Revised Uniform Anatomical Gift Act to include on the donor registry a statement or symbol that the donor has made, amended or revoked an anatomical gift;

(2) be accessible to a procurement organization to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended or revoked an anatomical gift; and

(3) be accessible for purposes of Paragraphs (1) and (2) of this subsection seven days a week on a twenty-four-hour basis.

D. Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor or person who made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended or revoked an anatomical gift.

E. This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with the state. Any such registry shall comply with the provisions of Subsections C and D of this section.

## **Chapter 323 Section 21 Laws 2007**

Section 21. EFFECT OF ANATOMICAL GIFT ON ADVANCE HEALTH-CARE DIRECTIVE.--

A. As used in this section:

(1) "advance health-care directive" means a power of attorney for health care, a health-care directive made pursuant to the provisions of the Uniform Health-Care Decisions Act or a record signed by a prospective donor containing the prospective donor's direction concerning a health-care decision for the prospective donor;

(2) "declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor; and

(3) "health-care decision" means any decision made regarding the health care of the prospective donor.

B. If a prospective donor has a declaration or advance health-care directive, measures necessary to ensure the medical suitability of an organ for transplantation or therapy may not be withheld or withdrawn from the prospective donor, unless the declaration expressly provides to the contrary.

## **Chapter 323 Section 22 Laws 2007**

Section 22. COOPERATION BETWEEN OFFICE OF THE STATE MEDICAL INVESTIGATOR AND PROCUREMENT ORGANIZATION.--

A. The office of the state medical investigator shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research or education.

B. If the office of the state medical investigator receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the office of the state medical investigator and a post-mortem examination is going to be performed, unless the office of the state medical investigator denies recovery in accordance with Section 23 of the Jonathan Spradling Revised Uniform Anatomical Gift Act, the office of the state medical investigator or its designee shall conduct a post-mortem examination of the body or the part in a manner and within a period compatible with its preservation for the purposes of the anatomical gift.

C. A part may not be removed from the body of a decedent under the jurisdiction of the office of the state medical investigator for transplantation, therapy, research or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the office of the state medical investigator may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude the office of the state medical investigator from performing the medico-legal investigation upon the body or parts of a decedent under the jurisdiction of the office of the state medical investigator.

## **Chapter 323 Section 23 Laws 2007**

Section 23. FACILITATION OF ANATOMICAL GIFT FROM DECEDENT WHOSE BODY IS UNDER JURISDICTION OF THE OFFICE OF THE STATE MEDICAL INVESTIGATOR.--

A. Upon request of a procurement organization, the office of the state medical investigator shall release to the procurement organization the name, contact information and available medical and social history of a decedent whose body is under the jurisdiction of the office of the state medical investigator. If the decedent's body or part is medically suitable for transplantation, therapy, research or education, the office of the state medical investigator shall release post-mortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the post-mortem examination results or other information received from the office of the state medical investigator only if relevant to transplantation or therapy.

B. The office of the state medical investigator may conduct a medico-legal investigation by reviewing all medical records, laboratory test results, x-rays, other diagnostic results and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the office of the state medical investigator that the office of the state medical investigator determines may be relevant to the investigation.

C. A person that has any information requested by the office of the state medical investigator pursuant to Subsection B of this section shall provide that information as expeditiously as possible to allow the office of the state medical investigator to conduct the medico-legal investigation within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research or education.

D. If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the office of the state medical investigator and a post-mortem examination is not required, or the office of the state medical investigator determines that a post-mortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the office of the state medical investigator and the procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research or education.

E. If an anatomical gift of a part from the decedent under the jurisdiction of the office of the state medical investigator has been or might be made, but the office of the state medical investigator initially believes that the recovery of the part could interfere with the post-mortem investigation into the decedent's cause or manner of death, the office of the state medical investigator shall consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. After consultation, the office of the state medical investigator may allow the recovery.

F. Following the consultation pursuant to Subsection E of this section, in the absence of mutually agreed-upon protocols to resolve conflict between the office of the state medical investigator and the procurement organization, if the office of the state medical investigator intends to deny recovery, the office of the state medical investigator

or its designee, at the request of the procurement organization, shall attend the removal procedure for the part before making a final determination not to allow the procurement organization to recover the part. During the removal procedure, the office of the state medical investigator or its designee may allow recovery by the procurement organization to proceed, or, if the office of the state medical investigator or its designee reasonably believes that the part may be involved in determining the decedent's cause or manner of death, may deny recovery by the procurement organization.

G. If the office of the state medical investigator or its designee denies recovery pursuant to Subsection F of this section, the office of the state medical investigator or its designee shall:

(1) explain in a record the specific reasons for not allowing recovery of the part;

(2) include the specific reasons in the records of the office of the state medical investigator; and

(3) provide a record with the specific reasons to the procurement organization.

H. If the office of the state medical investigator or its designee allows recovery of a part pursuant to Subsection D, E or F of this section, the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the office of the state medical investigator with a record describing the condition of the part, a biopsy, a photograph and any other information and observations that would assist in the post-mortem examination.

I. If the office of the state medical investigator or its designee is required to be present at a removal procedure pursuant to Subsection F of this section, upon request the procurement organization requesting the recovery of the part shall reimburse the office of the state medical investigator or its designee for the additional costs incurred in complying with the provisions of Subsection F of this section.

## **Chapter 323 Section 24 Laws 2007**

Section 24. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Jonathan Spradling Revised Uniform Anatomical Gift 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 323 Section 25 Laws 2007**

Section 25. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Jonathan Spradling Revised Uniform Anatomical Gift Act modifies, limits and 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(a) of that act, 15 U.S.C. Section 7001, 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 323 Section 26 Laws 2007**

Section 26. Section 12-2-4 NMSA 1978 (being Laws 1993, Chapter 174, Section 1) is amended to read:

"12-2-4. DETERMINATION OF DEATH.--

A. For all medical, legal and statutory purposes, death occurs when an individual has sustained either:

(1) irreversible cessation of circulatory or respiratory functions; or

(2) irreversible cessation of all functions of the entire brain, including the brain stem.

B. A determination of death shall be made in accordance with accepted medical standards.

C. Death is to be pronounced pursuant to the provisions of Subsection A of this section before artificial means of supporting circulatory or respiratory functions are terminated and before any vital organ is removed for purposes of transplantation, therapy, research or education in compliance with the provisions of the Jonathan Spradling Revised Uniform Anatomical Gift Act.

D. The definition of death set forth in Subsection A of this section is to be utilized for all purposes in this state, including civil and criminal actions, notwithstanding any other law to the contrary."

## **Chapter 323 Section 27 Laws 2007**

Section 27. Section 14-16-3 NMSA 1978 (being Laws 2001, Chapter 131, Section 3) is amended to read:

"14-16-3. SCOPE.--

(a) Except as otherwise provided in Subsection (b), the Uniform Electronic Transactions Act applies to electronic records and electronic signatures relating to a transaction.

(b) The Uniform Electronic Transactions Act does not apply to:

(1) a transaction to the extent it is governed by:

(i) a law governing the creation and execution of wills, codicils or testamentary trusts;

(ii) the Uniform Commercial Code, other than Sections 55-1-107 and 55-1-206 NMSA 1978 and Chapter 55, Articles 2 and 2A NMSA 1978; or

(iii) court orders, notices or official court documents, including briefs, pleadings and other records, required to be executed in connection with court proceedings;

(2) a notice concerning:

(i) the cancellation or termination of utility services, including water, heat or power services;

(ii) default, acceleration, repossession, foreclosure, eviction or the right to cure, under a credit agreement secured by or a rental agreement for a primary residence of an individual; or

(iii) the cancellation or termination of health insurance or benefits or life insurance or benefits, but not including annuities; or

(3) any document required to accompany any transportation or handling of hazardous materials, pesticides or other toxic or dangerous materials.

(c) The Uniform Electronic Transactions Act applies to an electronic record or electronic signature otherwise excluded from the application of that act under Subsection (b) to the extent it is governed by a law other than those specified in Subsection (b).

(d) A transaction subject to the Uniform Electronic Transactions Act is also subject to other applicable substantive law."

## **Chapter 323 Section 28 Laws 2007**

Section 28. Section 24-6A-7.1 NMSA 1978 (being Laws 2002, Chapter 42, Section 3) is recompiled in the Jonathan Spradling Revised Uniform Anatomical Gift Act and is amended to read:

"24-6A-7.1. DOCUMENT OF GIFT AS A LEGAL DOCUMENT.--A document of gift constitutes a legal document and has sufficient legal authority to be accepted by a designated or undesignated donee of anatomical gifts pursuant to the Jonathan Spradling Revised Uniform Anatomical Gift Act."

## Chapter 323 Section 29 Laws 2007

Section 29. Section 24-6A-9.1 NMSA 1978 (being Laws 2000, Chapter 54, Section 7) is recompiled in the Jonathan Spradling Revised Uniform Anatomical Gift Act and is amended to read:

### "24-6A-9.1. IDENTIFICATION OF POTENTIAL DONORS.--

A. Each hospital in New Mexico, with the concurrence of its medical staff, shall develop by July 1, 2000 a protocol for identifying potential donors. The protocol shall be developed in collaboration with a procurement organization. The protocol shall provide that at or near the time of a patient's death and prior to the removal of life support, the hospital shall contact a procurement organization to determine the suitability of the patient as a donor. The person designated by the hospital to contact the procurement organization shall have the following information available prior to making the contact:

- (1) the patient's identifier number;
- (2) the patient's age;
- (3) the cause of death; and
- (4) any past medical history available.

B. The procurement organization shall determine the suitability for donation. If the procurement organization determines that donation is not appropriate based on established medical criteria, that determination shall be noted by hospital personnel on the patient's record and no further action is necessary.

C. If the procurement organization determines that the patient is a suitable candidate for donation, the procurement organization shall initiate donor proceedings by making a reasonable search for a document of gift or other information identifying the patient as a donor or as a person who has refused to make an anatomical gift.

D. The hospital must have and implement written protocols that:

(1) incorporate an agreement with a procurement organization under which the hospital must notify, in a timely manner, the procurement organization or a third party designated by the procurement organization of patients whose deaths are imminent and prior to the removal of life support from a patient who has died in the hospital;

(2) ensure that the retrieval, processing, preservation, storage and distribution of tissues and eyes does not interfere with vascular organ procurement;

(3) ensure that the family of each potential donor is informed of its options to donate organs, tissues or eyes or to decline to donate. The person designated by the hospital to initiate the request to the family must be a procurement organization employee or a designated requester;

(4) encourage discretion and sensitivity with respect to the circumstances, views and beliefs of the families of potential donors; and

(5) ensure that the hospital works cooperatively with the procurement organization in educating hospital staff on donation issues, reviewing death records to improve identification of potential donors and maintaining potential donors while necessary testing and placement of anatomical gifts take place.

E. Every hospital in the state shall establish a committee to develop and implement its organ and tissue donation policy and procedure to assist its staff in identifying and evaluating terminal patients who may be suitable organ or tissue donors. The committee shall include members of the administrative, medical and nursing staffs and shall appoint a member to act as a liaison between the hospital and the state procurement organization."

## **Chapter 323 Section 30 Laws 2007**

Section 30. Section 24-6A-9.2 NMSA 1978 (being Laws 2000, Chapter 54, Section 6) is recompiled in the Jonathan Spradling Revised Uniform Anatomical Gift Act and is amended to read:

"24-6A-9.2. DEATH RECORD REVIEWS.--Every hospital shall work jointly with the appropriate procurement organization to conduct death record reviews at least annually. The procurement organization shall compile the results of the death record reviews and provide a report to the department of health by September 1 of each year; provided that the report to the department shall not identify hospitals, donors or recipients."

## **Chapter 323 Section 31 Laws 2007**

Section 31. Section 66-2-7.1 NMSA 1978 (being Laws 1995, Chapter 135, Section 4, as amended) is amended to read:

"66-2-7.1. MOTOR VEHICLE-RELATED RECORDS--CONFIDENTIAL.--

A. It is unlawful for any department or bureau employee or contractor or for any former department or bureau employee or contractor to disclose to any person other than another employee of the department or bureau any personal information about an individual obtained by the department in connection with a driver's license or permit, the titling or registration of a vehicle, the administration of the Ignition Interlock Licensing

Act and the interlock device fund or an identification card issued by the department pursuant to the Motor Vehicle Code except:

(1) to the individual or the individual's authorized representative;

(2) for use by any governmental agency, including any court, in carrying out its functions or by any private person acting on behalf of the government;

(3) for use in connection with matters of motor vehicle and driver safety or theft; motor vehicle emissions; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; motor vehicle production alterations, recalls or advisories; and removal of non-owner records from original owner records of motor vehicle manufacturers;

(4) for use in research activities and for use in producing statistical reports, so long as the personal information is not published, redisclosed or used to contact individuals;

(5) for use by any insurer or insurance support organization or by a self-insured entity or its agents, employees or contractors in connection with claims investigation activities, antifraud activities, rating or underwriting;

(6) for providing notice to owners of towed or impounded vehicles;

(7) for use by an employer or its agent or insurer in obtaining or verifying information relating to a holder of a commercial driver's license;

(8) for use by any requester if the requester demonstrates that it has obtained the written consent of the individual to whom the information pertains;

(9) for use by an insured state-chartered or federally chartered credit union; an insured state or national bank; an insured state or federal savings and loan association; or an insured savings bank, but only:

(a) to verify the accuracy of personal information submitted by an individual to the credit union, bank, savings and loan association or savings bank; and

(b) if the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purpose of preventing fraud by pursuing legal remedies against or recovering on a debt or security interest from the individual;

(10) for providing organ donor information as provided in the Jonathan Spradling Revised Uniform Anatomical Gift Act or Section 66-5-10 NMSA 1978; or

(11) for providing the names and addresses of all lienholders and owners of record of abandoned vehicles to storage facilities or wrecker yards for the purpose of providing notice as required in Section 66-3-121 NMSA 1978.

B. Any person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

## **Chapter 323 Section 32 Laws 2007**

Section 32. Section 66-5-10 NMSA 1978 (being Laws 1978, Chapter 35, Section 232, as amended) is amended to read:

"66-5-10. APPLICATION FOR LICENSE--INFORMATION--TRANSFER TO LICENSE.--

A. Within the forms prescribed by the department for applications and licenses of drivers of motor vehicles, a space shall be provided to show whether the applicant is a donor as provided in the Jonathan Spradling Revised Uniform Anatomical Gift Act. Anyone applying for a license may, if the applicant desires, indicate the applicant's donor status on the space provided on the application, and this information, if given by an applicant, shall be shown upon the license issued. The form and driver's license shall be signed by the donor in the presence of a witness who shall also sign the form in the donor's presence. The department shall, as soon as practicable, include the following donor statement on the application form:

"I, \_\_\_\_\_, hereby make an

(Name of applicant/donor)

anatomical gift effective upon my death. A

medical evaluation at the time of my death shall

determine the organs and tissues suitable for

donation.

\_\_\_\_\_

(Signature of donor)

\_\_\_\_\_

(Signature of parent or guardian is required if the donor is under fifteen years of age.)".

B. The department shall mark the donor status on each person's driver's license record and shall retain each application form or its image of a person who wishes to be a donor. The department shall create and maintain a statewide donor registry and shall provide on-line computer terminal access to the donor registry to organ procurement organizations and procurement organizations, as defined in the Jonathan Spradling Revised Uniform Anatomical Gift Act. Authorized hospital or organ and tissue donor program personnel, immediately prior to or after a donor's death, may request verification of the donor's status from the department and may obtain a copy of the application from the department."

### **Chapter 323 Section 33 Laws 2007**

Section 33. Section 66-5-401 NMSA 1978 (being Laws 1978, Chapter 35, Section 328, as amended) is amended to read:

"66-5-401. IDENTIFICATION CARDS.--

A. A person who does not have a valid New Mexico driver's license may be issued an identification card by the department certified by the applicant as to true name, correct age and other identifying data as the department may require. 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. 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 323 Section 34 Laws 2007**

Section 34. Section 66-7-506.1 NMSA 1978 (being Laws 2000, Chapter 54, Section 11) is amended to read:

"66-7-506.1. DWI PREVENTION AND EDUCATION PROGRAM--ORGAN DONATION.--DWI prevention and education programs for instruction permits and driver's licenses shall include information on organ donation and the provisions of the Jonathan Spradling Revised Uniform Anatomical Gift Act."

### **Chapter 323 Section 35 Laws 2007**

Section 35. REPEAL.--Sections 24-6A-1 through 24-6A-6.1, 24-6A-7, 24-6A-8, 24-6A-9 and 24-6A-10 through 24-6A-15 NMSA 1978 (being Laws 1995, Chapter 116, Sections 1 through 6, Laws 2000, Chapter 54, Section 8 and Laws 1995, Chapter 116, Sections 7, 8, 9 and 10 through 15, as amended) are repealed.

### **Chapter 323 Section 36 Laws 2007**

Section 36. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Judiciary Committee Substitute

for House Bill 1276, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 324**

AN ACT

RELATING TO IGNITION INTERLOCKS; REQUIRING CONFIDENTIALITY IN THE ADMINISTRATION OF THE IGNITION INTERLOCK LICENSING ACT AND THE INTERLOCK DEVICE FUND; ALLOWING THE PAROLE BOARD AND PROBATION AND PAROLE OFFICERS TO DETERMINE INDIGENCY FOR PURPOSES OF ASSISTANCE FROM THE FUND.

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

### **Chapter 324 Section 1 Laws 2007**

Section 1. Section 66-2-7.1 NMSA 1978 (being Laws 1995, Chapter 135, Section 4, as amended) is amended to read:

"66-2-7.1. MOTOR VEHICLE-RELATED RECORDS--CONFIDENTIAL.--

A. It is unlawful for any department or bureau employee or contractor or for any former department or bureau employee or contractor to disclose to any person other than another employee of the department or bureau any personal information about an individual obtained by the department or bureau in connection with a driver's license or permit, the titling or registration of a vehicle, the administration of the Ignition Interlock Licensing Act and the interlock device fund or an identification card issued by the department pursuant to the Motor Vehicle Code except:

(1) to the individual or the individual's authorized representative;

(2) for use by any governmental agency, including any court, in carrying out its functions or by any private person acting on behalf of the government;

(3) for use in connection with matters of motor vehicle and driver safety or theft; motor vehicle emissions; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; motor vehicle production alterations, recalls or advisories; and removal of non-owner records from original owner records of motor vehicle manufacturers;

(4) for use in research activities and for use in producing statistical reports, so long as the personal information is not published, redisclosed or used to contact individuals;

(5) for use by any insurer or insurance support organization or by a self-insured entity or its agents, employees or contractors in connection with claims investigation activities, antifraud activities, rating or underwriting;

(6) for providing notice to owners of towed or impounded vehicles;

(7) for use by an employer or its agent or insurer in obtaining or verifying information relating to a holder of a commercial driver's license;

(8) for use by any requester if the requester demonstrates that it has obtained the written consent of the individual to whom the information pertains;

(9) for use by an insured state-chartered or federally chartered credit union; an insured state or national bank; an insured state or federal savings and loan association; or an insured savings bank, but only:

(a) to verify the accuracy of personal information submitted by an individual to the credit union, bank, savings and loan association or savings bank; and

(b) if the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purpose of preventing fraud by pursuing legal remedies against or recovering on a debt or security interest from the individual;

(10) for providing organ donor information as provided in the Uniform Anatomical Gift Act or Section

66-5-10 NMSA 1978; or

(11) for providing the names and addresses of all lienholders and owners of record of abandoned vehicles to storage facilities or wrecker yards for the purpose of providing notice as required in Section 66-3-121 NMSA 1978.

B. Any person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

## **Chapter 324 Section 2 Laws 2007**

Section 2. Section 66-8-102.3 NMSA 1978 (being Laws 2002, Chapter 82, Section 2, as amended) is amended to read:

"66-8-102.3. IMPOSING A FEE--INTERLOCK DEVICE FUND CREATED.--

A. A fee is imposed on a person convicted of driving while under the influence of intoxicating liquor or drugs pursuant to Section 66-8-102 NMSA 1978 or adjudicated as a delinquent on the basis of Subparagraph (a) of Paragraph (1) of Subsection A of Section 32A-2-3 NMSA 1978 or a person whose driver's license is revoked pursuant to the provisions of the Implied Consent Act, in an amount determined by rule of the traffic safety bureau of the department of transportation not to exceed one hundred dollars (\$100) but not less than fifty dollars (\$50.00) for each year the person is required to operate only vehicles equipped with an ignition interlock device in order to ensure the solvency of the interlock device fund. The fee shall not be imposed on an indigent person. The fee imposed by this subsection shall be collected by the vendor who provides an ignition interlock device to the person. The vendor shall remit the fees collected on a quarterly basis to the traffic safety bureau of the department of transportation.

B. The "interlock device fund" is created in the state treasury. The fee imposed pursuant to Subsection A of this section shall be distributed to the fund by the traffic safety bureau of the department of transportation.

C. All money in the interlock device fund is appropriated to the traffic safety bureau of the department of transportation to cover the costs of installing and removing and one-half of the cost of leasing ignition interlock devices for indigent people who are required, pursuant to convictions under Section 66-8-102 NMSA 1978 or adjudications on the basis of Subparagraph (a) of Paragraph (1) of Subsection A of Section 32A-2-3 NMSA 1978 or driver's license revocations pursuant to the provisions of the Implied Consent Act or as a condition of parole, to install those devices in their vehicles. Indigency shall be determined by the court, the parole board or a probation and parole officer.

D. Any balance remaining in the interlock device fund shall not revert to the general fund at the end of any fiscal year.

E. The interlock device fund shall be administered by the traffic safety bureau of the department of transportation. No more than five percent of the money in the interlock device fund in any fiscal year shall be expended by the traffic safety bureau of the department of transportation for the purpose of administering the fund."

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Senate Bill 591, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 325**

### **AN ACT**

RELATING TO THE EXECUTIVE DEPARTMENT; TRANSFERRING THE BEHAVIORAL HEALTH SERVICES DIVISION FROM THE DEPARTMENT OF HEALTH TO THE HUMAN SERVICES DEPARTMENT; PROVIDING FOR THE TRANSFER OF PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

### **Chapter 325 Section 1 Laws 2007**

Section 1. Section 9-7-4 NMSA 1978 (being Laws 1991, Chapter 25, Section 16, as amended) is amended to read:

"9-7-4. DEPARTMENT ESTABLISHED.--

A. There is created in the executive branch the "department of health". The department shall be a cabinet department and shall include, but not be limited to, the programs and functions of the public health division and the scientific laboratory.

B. All references in the law to the public health division of the health and environment department, the state department of public health, the public health department, the health services division or the state board of health shall be construed as referring to the department.

C. The administrative services division of the department shall provide clerical, recordkeeping and administrative support to the department, including, but not limited to, the areas of personnel, budget, procurement and contracting.

D. The information technology division shall have all those powers and duties conferred upon it by the secretary with the consent of the governor."

## **Chapter 325 Section 2 Laws 2007**

Section 2. Section 9-8-1 NMSA 1978 (being Laws 1977, Chapter 252, Section 1) is amended to read:

"9-8-1. SHORT TITLE.--Chapter 9, Article 8 NMSA 1978 may be cited as the "Human Services Department Act"."

## **Chapter 325 Section 3 Laws 2007**

Section 3. Section 9-8-4 NMSA 1978 (being Laws 1977, Chapter 252, Section 4, as amended) is amended to read:

"9-8-4. DEPARTMENT ESTABLISHED.--

A. There is created in the executive branch the "human services department". The department shall be a cabinet department and shall consist of, but not be limited to, six divisions as follows:

- (1) the income support division;
- (2) the administrative services division;
- (3) the medical assistance division;
- (4) the child support enforcement division;
- (5) the behavioral health services division; and
- (6) the information technology division.

B. All references in the law to the behavioral health services division of the department of health or to the mental health division of the department of health in Sections 29-11-1 through 29-11-7 NMSA 1978 or to the department of health in Sections 43-2-1.1 through 43-2-23 NMSA 1978 shall be construed as referring to the human services department."

## **Chapter 325 Section 4 Laws 2007**

Section 4. A new section of the Human Services Department Act is enacted to read:

"BEHAVIORAL HEALTH SERVICES DIVISION--POWERS AND DUTIES OF THE HUMAN SERVICES DEPARTMENT.--Subject to appropriation, the department shall:

A. contract for behavioral health treatment and support services, including mental health, alcoholism and other substance abuse services;

B. establish standards for the delivery of behavioral health services, including quality management and improvement, performance measures, accessibility and availability of services, utilization management, credentialing and recredentialing, rights and responsibilities of providers, preventive behavioral health services, clinical treatment and evaluation and the documentation and confidentiality of client records;

C. ensure that all behavioral health services, including mental health and substance abuse services, that are provided, contracted for or approved are in compliance with the requirements of Section 9-7-6.4 NMSA 1978;

D. assume responsibility for and implement adult mental health and substance abuse services in the state in coordination with the children, youth and families department;

E. establish criteria for determining individual eligibility for behavioral health services; and

F. maintain a management information system in accordance with standards for reporting clinical and fiscal information."

## **Chapter 325 Section 5 Laws 2007**

Section 5. Section 11-7-2 NMSA 1978 (being Laws 1969, Chapter 118, Section 2, as amended) is amended to read:

"11-7-2. COMPACT COORDINATOR--POWERS AND DUTIES.--Pursuant to the Interstate Compact on Mental Health, the director of the behavioral health services division of the human services department is designated as the compact administrator and, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement entered into by this state under the compact."

## **Chapter 325 Section 6 Laws 2007**

Section 6. Section 24-1-2 NMSA 1978 (being Laws 1973, Chapter 359, Section 2, as amended) is amended to read:

"24-1-2. DEFINITIONS.--As used in the Public Health Act:

A. "department" or "division" means the children, youth and families department as to child care centers, residential treatment centers that serve persons up to twenty-one years of age, community mental health centers that serve only persons up to twenty-one years of age and day treatment centers that serve persons up to twenty-one years of age, and the department of health as to all other health facilities, unless otherwise designated;

B. "director" means the secretary;

C. "person", when used without further qualification, means an individual or any other form of entity recognized by law;

D. "health facility" means a public hospital, profit or nonprofit private hospital, general or special hospital, outpatient facility, maternity home or shelter, adult daycare facility, nursing home, intermediate care facility, boarding home not under the control of an institution of higher learning, child care center, shelter care home, diagnostic and treatment center, rehabilitation center, infirmary, community mental health center that serves both children and adults or adults only, residential treatment center that serves persons up to twenty-one years of age, community mental health center that serves only persons up to twenty-one years of age and day treatment center that serves persons up to twenty-one years of age or a health service organization operating as a free-standing hospice or a home health agency. The designation of these entities as health facilities is only for the purposes of definition in the Public Health Act and does not imply that a free-standing hospice or a home health agency is considered a health facility for the purposes of other provisions of state or federal laws. "Health facility" also includes those facilities that, by federal regulation, must be licensed by the state to obtain or maintain full or partial, permanent or temporary federal funding. It does not include the offices and treatment rooms of licensed private practitioners; and

E. "secretary" means the secretary of children, youth and families as to child care centers and facilities and the secretary of health as to all other health facilities."

## **Chapter 325 Section 7 Laws 2007**

Section 7. Section 24-1-5.7 NMSA 1978 (being Laws 2003, Chapter 190, Section 1) is amended to read:

"24-1-5.7. METHADONE CLINICS--REGULATION BY THE HUMAN SERVICES DEPARTMENT.--

A. The federal government requires the state to approve the establishment of all new methadone clinics. In an effort to maintain compliance with the federal requirement, the human services department shall regulate the establishment and continuance of methadone clinics in New Mexico in accordance with its powers and duties.

B. In regulating methadone clinics, the human services department shall perform an assessment of the need for clinics and develop clinical and administrative standards as required by federal law. The human services department may consider other factors it deems necessary to ensure the provision of drug abuse treatment services and the protection of the health and safety of New Mexico residents.

C. For the purposes of this section, "methadone clinic" means a public or private facility that dispenses methadone for the detoxification treatment or maintenance treatment of narcotic addicts."

## **Chapter 325 Section 8 Laws 2007**

Section 8. Section 28-10-1 NMSA 1978 (being Laws 1973, Chapter 349, Section 1, as amended) is amended to read:

"28-10-1. GOVERNOR'S COMMISSION ON DISABILITY.--

A. There is created the "governor's commission on disability" consisting of fifteen members, nine of whom shall be appointed by the governor. The six remaining members shall be the director of the vocational rehabilitation division of the public education department, the secretary of labor or the secretary's designee, the director of the behavioral health services division of the human services department, the secretary of children, youth and families or the secretary's designee, the secretary of aging and long-term services or the secretary's designee and the secretary of human services or the secretary's designee. Initially, three members shall be appointed for terms ending December 31, 1978, three members for terms ending December 31, 1980 and three members for terms ending December 31, 1982. Thereafter, appointments shall be for six years expiring on December 31 of even-numbered years. Appointed members shall be appointed from different geographic areas of the state and from the major disability services in the state. Appointed members shall include individuals with disabilities, representatives of government and private enterprise, parents or guardians of individuals with disabilities and professionals in, or those who are interested in, service for individuals with disabilities. Not more than five of the members appointed by the governor shall be of the same political party.

B. A majority of the members of the commission constitutes a quorum for the transaction of business. The commission shall meet at least twice a year and shall annually elect a chair and a vice chair.

C. The commission shall be primarily concerned with those individuals with disabilities who have a condition that, regardless of its physical or mental origin, constitutes a substantial occupational disadvantage."

## **Chapter 325 Section 9 Laws 2007**

Section 9. 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 licensed 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 the developmentally disabled client in acquiring and maintaining those skills and behaviors that enable the person to cope more effectively with the demands of the person's self and environment and to raise the level of the person's physical, mental and social efficiency. "Habilitation" includes but is not limited to programs of formal, structured education and treatment;

M. "likelihood of serious harm to oneself" means that it is more likely than not that in the near future the person will attempt to commit suicide or will cause serious bodily harm to the person's self by violent or other self-destructive means, including but not limited to grave passive neglect;

N. "likelihood of serious harm to others" means that it is more likely than not that in the near future a person will inflict serious, unjustified bodily harm on another person or commit a criminal sexual offense, as evidenced by behavior causing, attempting or threatening such harm, which behavior gives rise to a reasonable fear of such harm from the person;

O. "mental disorder" means substantial disorder of a person's emotional processes, thought or cognition that grossly impairs judgment, behavior or capacity to recognize reality, but does not mean developmental disability;

P. "mental health or developmental disabilities professional" means a physician or other professional who by training or experience is qualified to work with individuals with mental disorders or developmental disabilities;

Q. "physician" or "certified psychologist", when used for the purpose of hospital admittance or discharge, means a physician or certified psychologist who has been

granted admitting privileges at a hospital licensed by the department of health, if such privileges are required;

R. "psychosurgery":

(1) means those operations currently referred to as lobotomy, psychiatric surgery and behavioral surgery and all other forms of brain surgery if the surgery is performed for the purpose of the following:

(a) modification or control of thoughts, feelings, actions or behavior rather than the treatment of a known and diagnosed physical disease of the brain;

(b) treatment of abnormal brain function or normal brain tissue in order to control thoughts, feelings, actions or behavior; or

(c) treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions or behavior when the abnormality is not an established cause for those thoughts, feelings, actions or behavior; and

(2) does not include prefrontal sonic treatment in which there is no destruction of brain tissue;

S. "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

T. "treatment" means any effort to accomplish a significant change in the mental or emotional condition or behavior of the client."

## **Chapter 325 Section 10 Laws 2007**

Section 10. Section 43-3-10 NMSA 1978 (being Laws 1985, Chapter 185, Section 3, as amended) is amended to read:

"43-3-10. DEFINITIONS.--As used in Chapter 43, Article 3 NMSA 1978:

A. "board" means the board of county commissioners of a county;

B. "department" means the human services department;

C. "DWI program" means a community program specifically designed to provide treatment, aftercare or prevention of or education regarding driving while under the influence of alcohol or drugs;

D. "incarceration and treatment facility" means a minimum security detention facility that provides a DWI program;

E. "planning council" means a county DWI planning council;

F. "screening program" means a program that provides screening or examination by alcoholism treatment professionals of persons charged with or convicted of driving while intoxicated or other offenses to determine whether the person is:

(1) physically dependent on alcohol and thus suffering from the disease of alcoholism;

(2) an alcohol abuser who has not yet developed the alcoholism disease syndrome but has an entrenched pattern of pathological use of alcohol and social or occupational impairment in function from alcohol abuse; or

(3) neither an alcoholic nor an alcohol abuser such that alcoholism treatment is not necessary; and that provides referral or recommendation of such persons to the most appropriate treatment; and

G. "statewide substance abuse services plan" means the comprehensive plan for a statewide services network developed by the department that documents the extent of New Mexico's substance abuse problem and statewide needs for prevention, screening, detoxification, short-term and long-term rehabilitation, outpatient programs and DWI programs. The plan shall be based on the continuum of care concept of a comprehensive prevention and treatment system."

## **Chapter 325 Section 11 Laws 2007**

Section 11. Section 52-4-1 NMSA 1978 (being Laws 1983, Chapter 116, Section 1, as amended) is amended to read:

"52-4-1. DEFINITION--HEALTH CARE PROVIDER.--As used in Chapter 52 NMSA 1978, "health care provider" means:

A. a hospital maintained by the state or a political subdivision of the state or any place currently licensed as a hospital by the department of health that has:

(1) accommodations for resident bed patients;

(2) a licensed professional registered nurse always on duty or call;

(3) a laboratory; and

(4) an operating room where surgical operations are performed;

B. an optometrist licensed pursuant to the provisions of Chapter 61, Article 2 NMSA 1978;

C. a chiropractic physician licensed pursuant to the provisions of Chapter 61, Article 4 NMSA 1978;

D. a dentist licensed pursuant to the provisions of Chapter 61, Article 5 NMSA 1978;

E. a physician licensed pursuant to the provisions of Chapter 61, Article 6 NMSA 1978;

F. a podiatrist licensed pursuant to the provisions of Chapter 61, Article 8 NMSA 1978;

G. an osteopathic physician licensed pursuant to the provisions of Chapter 61, Article 10 NMSA 1978;

H. a physician assistant registered pursuant to the provisions of Section 61-6-7 NMSA 1978;

I. a certified nurse practitioner licensed pursuant to Section 61-3-23.2 NMSA 1978;

J. a physical therapist licensed pursuant to the provisions of Chapter 61, Article 12 NMSA 1978;

K. an occupational therapist licensed pursuant to the provisions of Chapter 61, Article 12A NMSA 1978;

L. a doctor of oriental medicine licensed pursuant to the provisions of Chapter 61, Article 14A NMSA 1978;

M. a psychologist who is duly licensed or certified in the state where the service is rendered, holding a doctorate degree in psychology and having at least two years clinical experience in a recognized health setting, or who has met the standards of the national register of health services providers in psychology;

N. a certified nurse-midwife licensed by the board of nursing as a registered nurse and registered with the behavioral health services division of the human services department as a certified nurse-midwife; or

O. any person or facility that provides health-related services in the health care industry, as approved by the director."

## **Chapter 325 Section 12 Laws 2007**

Section 12. Section 59A-23-6 NMSA 1978 (being Laws 1983, Chapter 64, Section 1) is amended to read:

"59A-23-6. ALCOHOL DEPENDENCY COVERAGE.--

A. Each insurer that delivers or issues for delivery in this state a group health insurance policy shall offer and make available benefits for the necessary care and treatment of alcohol dependency. Such benefits shall:

(1) be subject to annual deductibles and coinsurance consistent with those imposed on other benefits within the same policy;

(2) provide no less than thirty days necessary care and treatment in an alcohol dependency treatment center and thirty outpatient visits for alcohol dependency treatment; and

(3) be offered for benefit periods of no more than one year and may be limited to a lifetime maximum of no less than two benefit periods. Such offer of benefits shall be subject to the rights of the group health insurance holder to reject the coverage or to select any alternative level of benefits if that right is offered by or negotiated with that insurer.

B. For purposes of this section, "alcohol dependency treatment center" means a facility that provides a program for the treatment of alcohol dependency pursuant to a written treatment plan approved and monitored by a physician or meeting the quality standards of the behavioral health services division of the human services department and which facility also:

(1) is affiliated with a hospital under a contractual agreement with an established system for patient referral;

(2) is accredited as such a facility by the joint commission on accreditation of hospitals; or

(3) meets at least the minimum standards adopted by the behavioral health services division for treatment of alcoholism in regional treatment centers.

C. This section applies to policies delivered or issued for delivery or renewed, extended or amended in this state on or after July 1, 1983 or upon expiration of a collective bargaining agreement applicable to a particular policyholder, whichever is later; provided that this section does not apply to blanket, short-term travel, accident-only, limited or specified disease, individual conversion policies or policies designed for issuance to persons eligible for coverage under Title 18 of the Social Security Act, known as medicare, or any other similar coverage under state or federal governmental plans. With respect to any policy forms approved by the insurance division of the public regulation commission prior to the effective date of this section, an insurer is authorized

to comply with this section by the use of endorsements or riders, provided such endorsements or riders are approved by the insurance division as being in compliance with this section and applicable provisions of the Insurance Code.

D. If an organization offering group health benefits to its members makes more than one health insurance policy or nonprofit health care plan available to its members on a member option basis, the organization shall not require alcohol dependency coverage from one health insurer or health care plan without requiring the same level of alcohol dependency coverage for all other health insurance policies or health care plans that the organization makes available to its members."

### **Chapter 325 Section 13 Laws 2007**

Section 13. TEMPORARY PROVISION--TRANSFER OF PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On July 1, 2007:

A. all personnel, appropriations, money, records, equipment, supplies and other property of the behavioral health services division of the department of health shall be transferred to the human services department; and

B. all contracts of the behavioral health services division of the department of health shall be binding and effective on the human services department.

### **Chapter 325 Section 14 Laws 2007**

Section 14. REPEAL.--Sections 9-7-6.1 and 9-7-6.2 NMSA 1978 (being Laws 1999, Chapter 270, Sections 1 and 2, as amended) are repealed.

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House Bill 371, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 326**

AN ACT

RELATING TO HEALTH; AMENDING CERTAIN DEFINITIONS IN THE PUBLIC HEALTH ACT.

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

### **Chapter 326 Section 1 Laws 2007**

Section 1. Section 24-1-2 NMSA 1978 (being Laws 1973, Chapter 359, Section 2, as amended) is amended to read:

"24-1-2. DEFINITIONS.--As used in the Public Health Act:

A. "department" or "division" means the children, youth and families department as to child care centers, residential treatment centers that serve persons up to

twenty-one years of age, community mental health centers that serve only persons up to twenty-one years of age, day treatment centers that serve persons up to twenty-one years of age, shelter care homes and those outpatient facilities that are also community-based behavioral health facilities serving only persons up to twenty-one years of age and the department of health as to all other health facilities;

B. "director" means the secretary;

C. "person", when used without further qualification, means an individual or any other form of entity recognized by law;

D. "health facility" means a public hospital, profit or nonprofit private hospital, general or special hospital, outpatient facility, maternity home or shelter, adult daycare facility, nursing home, intermediate care facility, boarding home not under the control of an institution of higher learning, child care center, shelter care home, diagnostic and treatment center, rehabilitation center, infirmary, community mental health center that serves both children and adults or adults only, residential treatment center that serves persons up to twenty-one years of age, community mental health center that serves only persons up to twenty-one years of age and day treatment center that serves persons up to twenty-one years of age or a health service organization operating as a freestanding hospice or a home health agency. The designation of these entities as health facilities is only for the purposes of definition in the Public Health Act and does not imply that a free-standing hospice or a home health agency is considered a health facility for the purposes of other provisions of state or federal laws. "Health facility" also includes those facilities that, by federal regulation, must be licensed by the state to obtain or maintain full or partial, permanent or temporary federal funding. It does not include the offices and treatment rooms of licensed private practitioners; and

E. "secretary" means the secretary of children, youth and families as to child care centers, residential treatment centers that serve persons up to twenty-one

years of age, community mental health centers that serve only persons up to twenty-one years of age, day treatment centers that serve persons up to twenty-one years of age, shelter care homes and those outpatient facilities that are also community-based behavioral health facilities serving only persons up to twenty-one years of age and the secretary of health as to all other health facilities."

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Senate Bill 585

Approved April 2, 2007

## **LAWS 2007, CHAPTER 327**

AN ACT

RELATING TO WORKERS' COMPENSATION; AMENDING THE DEFINITION OF "HEALTH CARE PROVIDER" TO INCLUDE ATHLETIC TRAINERS.

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

### **Chapter 327 Section 1 Laws 2007**

Section 1. Section 52-4-1 NMSA 1978 (being Laws 1983, Chapter 116, Section 1, as amended) is amended to read:

"52-4-1. DEFINITION--HEALTH CARE PROVIDER.--As used in Chapter 52 NMSA 1978, "health care provider" means:

A. a hospital maintained by the state or a political subdivision of the state or any place currently licensed as a hospital by the department of health that has:

- (1) accommodations for resident bed patients;
- (2) a licensed professional registered nurse always on duty or call;
- (3) a laboratory; and
- (4) an operating room where surgical operations are performed;

B. an optometrist licensed pursuant to the provisions of Chapter 61, Article 2 NMSA 1978;

C. a chiropractic physician licensed pursuant to the provisions of Chapter 61, Article 4 NMSA 1978;

D. a dentist licensed pursuant to the provisions of Chapter 61, Article 5 NMSA 1978;

E. a physician licensed pursuant to the provisions of Chapter 61, Article 6 NMSA 1978;

F. a podiatrist licensed pursuant to the provisions of Chapter 61, Article 8 NMSA 1978;

G. an osteopathic physician licensed pursuant to the provisions of Chapter 61, Article 10 NMSA 1978;

H. a physician assistant licensed pursuant to the provisions of Section 61-6-7 NMSA 1978;

I. a certified nurse practitioner licensed pursuant to Section 61-3-23.2 NMSA 1978;

J. a physical therapist licensed pursuant to the provisions of Chapter 61, Article 12 NMSA 1978;

K. an occupational therapist licensed pursuant to the provisions of Chapter 61, Article 12A NMSA 1978;

L. a doctor of oriental medicine licensed pursuant to the provisions of Chapter 61, Article 14A NMSA 1978;

M. an athletic trainer licensed pursuant to the provisions of Chapter 61, Article 14D NMSA 1978;

N. a psychologist who is duly licensed or certified in the state where the service is rendered, holding a doctorate degree in psychology and having at least two years clinical experience in a recognized health setting, or who has met the standards of the national register of health services providers in psychology;

O. a certified nurse-midwife licensed by the board of nursing as a registered nurse and registered with the behavioral health services division of the department of health as a certified nurse-midwife; or

P. any person or facility that provides health-related services in the health care industry, as approved by the director."

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House Bill 88

Approved April 2, 2007

## **LAWS 2007, CHAPTER 328**

AN ACT

RELATING TO EMERGENCIES; PROVIDING THAT AN UNPAID HEALTH PROFESSIONAL DEPLOYED BY THE DEPARTMENT OF HEALTH TO RESPOND TO A DECLARED EMERGENCY SHALL BE CONSIDERED A PUBLIC EMPLOYEE FOR PURPOSES OF THE WORKERS' COMPENSATION ACT.

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

### **Chapter 328 Section 1 Laws 2007**

Section 1. Section 52-1-3.1 NMSA 1978 (being Laws 1979, Chapter 199, Section 2, as amended) is amended to read:

"52-1-3.1. PUBLIC EMPLOYEE.--

A. As used in the Workers' Compensation Act, unless otherwise provided, "public employee" means any person receiving a salary from, and acting in the service of, the state or any county, municipality, school district, drainage, irrigation or conservancy district, public institution or administrative board, including elected or appointed public officers.

B. "Public employee" includes an unpaid health professional deployed by the department of health within New Mexico in response to a declared public emergency or public health emergency or deployed by the department of health outside New Mexico in response to a request for emergency health personnel made pursuant to the Emergency Management Assistance Compact; provided that, for purposes of the Workers' Compensation Act:

(1) the department of health shall be considered to be the employer of the person;

(2) the person's average weekly wage, for the purpose of calculating compensation, shall be considered to be the average weekly wage for similar services performed by paid workers in like employment; and

(3) the person shall not be considered an employee in the calculation of any fee pursuant to Section 52-5-19 NMSA 1978.

C. "Public employee" does not include an independent contractor."

### **Chapter 328 Section 2 Laws 2007**

Section 2. Section 52-1-64 NMSA 1978 (being Laws 1975, Chapter 241, Section 1, as amended) is amended to read:

"52-1-64. EXTRA-TERRITORIAL COVERAGE.--If an employee, while working outside the territorial limits of this state, suffers an injury on account of which the

employee or, in the event of the employee's death, the employee's dependents would have been entitled to the benefits provided by the Workers' Compensation Act, had such injury occurred within this state, the employee or, in the event of the employee's death resulting from the injury, the employee's dependents shall be entitled to the benefits provided by that act; provided that at the time of the injury:

A. the employee's employment is principally localized in this state;

B. the employee is working under a contract of hire made in this state in employment not principally localized in any state;

C. the employee is working under a contract of hire made in this state in employment principally localized in another state whose workers' compensation law is not applicable to the employee's employer;

D. the employee is working under a contract of hire made in this state for employment outside the United States and Canada; or

E. the employee is an unpaid health professional deployed outside this state by the department of health in response to a request for emergency health personnel made pursuant to the Emergency Management Assistance Compact."

## **Chapter 328 Section 3 Laws 2007**

Section 3. Section 52-4-1 NMSA 1978 (being Laws 1983, Chapter 116, Section 1, as amended) is amended to read:

"52-4-1. DEFINITION--HEALTH CARE PROVIDER.--As used in Chapter 52 NMSA 1978, "health care provider" means:

A. a hospital maintained by the state or a political subdivision of the state or any place currently licensed as a hospital by the department of health that has:

(1) accommodations for resident bed patients;

(2) a licensed professional registered nurse always on duty or call;

(3) a laboratory; and

(4) an operating room where surgical operations are performed;

B. an optometrist licensed pursuant to the provisions of Chapter 61, Article 2 NMSA 1978;

C. a chiropractor licensed pursuant to the provisions of Chapter 61, Article 4 NMSA 1978;

D. a dentist licensed pursuant to the provisions of Chapter 61, Article 5 NMSA 1978;

E. a physician licensed pursuant to the provisions of Chapter 61, Article 6 NMSA 1978;

F. a podiatrist licensed pursuant to the provisions of Chapter 61, Article 8 NMSA 1978;

G. an osteopathic physician licensed pursuant to the provisions of Chapter 61, Article 10 NMSA 1978;

H. a physician assistant registered pursuant to the provisions of Section 61-6-7 NMSA 1978;

I. a certified nurse practitioner licensed pursuant to Section 61-3-23.2 NMSA 1978;

J. a physical therapist licensed pursuant to the provisions of Chapter 61, Article 12 NMSA 1978;

K. an occupational therapist licensed pursuant to the provisions of Chapter 61, Article 12A NMSA 1978;

L. a doctor of oriental medicine licensed pursuant to the provisions of Chapter 61, Article 14A NMSA 1978;

M. a psychologist who is duly licensed or certified in the state where the service is rendered, holding a doctorate degree in psychology and having at least two years of clinical experience in a recognized health setting, or who has met the standards of the national register of health services providers in psychology;

N. a certified nurse-midwife licensed by the board of nursing as a registered nurse and registered with the behavioral health services division of the department of health as a certified nurse-midwife;

O. a pharmacist licensed pursuant to the provisions of Chapter 61, Article 11 NMSA 1978; or

P. any person or facility that provides health-related services in the health care industry, as approved by the director."

Approved April 2, 2007

## **LAWS 2007, CHAPTER 329**

### **AN ACT**

RELATING TO DEVELOPMENT; ADDRESSING THE EMINENT DOMAIN POWER OF MUNICIPALITIES; REPEALING SECTIONS OF THE URBAN DEVELOPMENT LAW; REPEALING THE COMMUNITY DEVELOPMENT LAW; REMOVING THE ABILITY TO CONDEMN PROPERTY FOR ECONOMIC DEVELOPMENT IN THE METROPOLITAN REDEVELOPMENT CODE; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

### **Chapter 329 Section 1 Laws 2007**

Section 1. Section 3-18-10 NMSA 1978 (being Laws 1973, Chapter 395, Section 1) is amended to read:

"3-18-10. POWER OF EMINENT DOMAIN--PURPOSES--PROCEEDINGS.--

A. Both within the municipal boundary and for a distance not extending beyond the planning and platting jurisdiction of the municipal boundary, a municipality has the power and right of condemnation of private property for public use for the purpose of:

(1) laying out, opening and widening streets, alleys and highways or their approaches; or

(2) constructing, maintaining and operating:

(a) storm drains; or

(b) garbage and refuse disposal areas and plants.

B. A municipality may acquire by eminent domain any property within the municipality:

(1) for park purposes;

(2) to establish cemeteries or mausoleums or to acquire existing cemeteries or mausoleums; or

(3) for the purpose of correcting obsolete or impractical planning and platting of subdivisions. For the purpose of this paragraph, "obsolete or impractical planning and platting" applies only to property that:

(a) was platted prior to 1971;

(b) has remained vacant and unimproved; and

(c) threatens the health, safety and welfare of persons or property due to erosion, flooding and inadequate drainage.

C. Condemnation proceedings pursuant to this section shall be in the manner provided by law."

## **Chapter 329 Section 2 Laws 2007**

Section 2. Section 3-46-43 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-47-19, as amended) is amended to read:

"3-46-43. ORDINANCES RELATING TO REPAIR, CLOSING AND DEMOLITION OF DWELLINGS UNFIT FOR HUMAN HABITATION--

COMPLAINT--SERVICE OF COMPLAINT--APPEAL.--

A. Whenever a municipality finds that there exist dwellings that are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, light or sanitary facilities; or other conditions, including those set forth in Subsection C of this section, rendering the dwellings unsafe and unsanitary or dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of the municipality, power is conferred upon the municipality to require or cause the repair, closing or demolition or removal of the dwellings in the manner provided in this section. "Dwelling" means a building or structure or part thereof used and occupied for human habitation or intended to be so used and includes any appurtenances usually enjoyed in the dwelling.

B. Upon the adoption of an ordinance finding that dwelling conditions of the character described in Subsection A of this section exist, the governing body of the municipality may adopt ordinances relating to the dwellings within the municipality that are unfit for human habitation. The ordinances shall include the following provisions:

(1) a public officer shall be designated or appointed to exercise the powers prescribed by the ordinances;

(2) whenever it appears to the public officer, on the officer's own motion, that a dwelling is unfit for human habitation, the officer shall, if the officer's preliminary investigation discloses a basis for the charges, issue and cause to be served on the owner, every mortgagee of record and all parties in interest in the dwelling, including persons in possession, a complaint stating the charges in that respect. The complaint shall contain a notice that a hearing will be held before the public officer or the officer's designated agent at a place fixed in the complaint not less than ten days nor more than

thirty days after the serving of the complaint; that the owner, mortgagee and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and the time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer;

(3) if after the notice and hearing the public officer determines that the dwelling under consideration is unfit for human habitation, the officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner an order in writing that advises the owner of the owner's rights under Subsection E of this section and that:

(a) if the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling, the ordinance of the municipality shall fix a certain percentage of the cost as being reasonable for that purpose and require the owner, within the time specified in the order, to repair, alter or improve the dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or

(b) if the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, the ordinance of the municipality shall fix a certain percentage of the cost as being reasonable for the purpose, and require the owner, within the time specified in the order, to remove or demolish the dwelling;

(4) if the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered or improved or to be vacated and closed;

(5) if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause the dwelling to be removed or demolished; and

(6) the amount of the cost of the repairs, alterations or improvements or the vacating and closing or the removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred. If the dwelling is removed or demolished by the public officer, the officer shall sell the materials of the dwelling and shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining shall be deposited in the district court by the public officer and shall be secured in the manner as may be directed by the court and shall be disbursed by the court to the persons found to be entitled to the balance by final order or decree of the court.

C. An ordinance adopted by a municipality pursuant to this section shall provide that the public officer may determine a dwelling is unfit for human habitation if the officer finds that conditions exist in the dwelling that are dangerous or injurious to the health, safety or morals of the occupants of the dwelling, the occupants of neighboring

dwellings or other residents of the municipality or that have a blighting influence on properties in the area. The conditions may include the following without limitations: defects increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness; overcrowding; inadequate ingress and egress; inadequate drainage; or any violation of health, fire, building or zoning regulations or any other laws or regulations relating to the use of land and the use and occupancy of buildings and improvements. The ordinance may provide additional standards to guide the public officer or the officer's agents or employees in determining the fitness of a dwelling for human habitation.

D. Complaints or orders issued by a public officer pursuant to an ordinance adopted under the provisions of this section shall be served upon persons either personally or by registered mail. If the whereabouts of the persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer makes an affidavit to that effect, the serving of the complaint or order upon the persons may be made by publishing the complaint or order once each week for two consecutive weeks in a newspaper printed and published in the municipality or, in the absence of a newspaper, in one printed and published in the county and circulating in the municipality in which the dwellings are located. A copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of the complaint or order shall also be filed with the clerk of the county in which the dwelling is located. Filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.

E. A person affected by an order issued by the public officer may file an appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

F. An ordinance adopted by the governing body of the municipality may authorize the public officer to exercise powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this section, including the following powers:

(1) to investigate the dwelling conditions in the municipality in order to determine which dwellings are unfit for human habitation;

(2) to administer oaths and affirmations, examine witnesses and receive evidence;

(3) to enter upon premises for the purpose of making examinations, provided that the entries shall be made in a manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;

(4) to appoint and fix the duties of any officers, agents and employees as the officer deems necessary to carry out the purposes of the ordinances; and

(5) to delegate any functions and powers under the ordinance to officers, agents and employees that the public officer may designate.

G. The governing body of a municipality adopting an ordinance under this section shall, as soon as possible thereafter, prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the dwellings in the municipality for the purpose of determining the fitness of the dwellings for human habitation and for the enforcement and administration of its ordinance or ordinances adopted under this section.

H. Nothing in this section shall be construed to abrogate or impair the powers of the courts or of a department of a municipality to enforce any provisions of its charter or its ordinances or regulations or to prevent or punish violations thereof. The powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

I. Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise."

## **Chapter 329 Section 3 Laws 2007**

Section 3. Section 3-60A-2 NMSA 1978 (being Laws 1979, Chapter 391, Section 2) is amended to read:

### **"3-60A-2. FINDINGS AND DECLARATIONS OF NECESSITY.--**

A. It is found and declared that there exist in municipalities of the state slum areas and blighted areas that constitute a serious and growing menace, injurious to the public health, safety, morals and welfare of the residents of the state; that the existence of these areas contributes substantially to the spread of disease and crime, constitutes an economic and social burden, substantially impairs or arrests the sound and orderly development of municipalities and retards the maintenance and expansion of necessary housing accommodations; that economic and commercial activities are lessened in those areas by the slum or blighted conditions, and the effects of these conditions include less employment in the area and municipality, lower property values, less gross receipts tax revenue for the state and municipalities and reduces the use of buildings, residential dwellings and other facilities in the area that the prevention and elimination of slum areas and blighted areas and the prevention and elimination of conditions that impair the sound and orderly development of municipalities is a matter of state policy and concern in order that the state and its municipalities shall not continue to be endangered by these areas that contribute little to the tax income of the state and its municipalities and that consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization or other forms of public protection, services and facilities.

B. Certain slum areas and blighted areas or portions thereof may require land acquisition and clearance by the municipality, since prevailing conditions may make impracticable their reclamation or development; other areas or portions of the slum or blighted area may be suitable for conservation or rehabilitation efforts and the conditions and evils enumerated in Subsection A of this section may be eliminated, remedied or prevented by those efforts; and to the extent feasible, salvageable slum and blighted areas should be conserved and rehabilitated through voluntary action, the regulatory process and, when necessary, by government assistance.

C. The powers conferred by the Metropolitan Redevelopment Code regarding the use of public money are for public uses or purposes for which public money may be expended. The individual benefits accruing to persons as the result of the powers conferred by the Metropolitan Redevelopment Code and projects conducted in accordance with its provisions are found and declared to be incidental to the objectives of that code and are far outweighed by the benefit to the public as a whole. Activities authorized and powers granted by the Metropolitan Redevelopment Code are hereby declared not to result in a donation or aid to any person, association or public or private organization or enterprise. The necessity for these provisions and the power is declared to be in the public interest as a matter of legislative determination.

D. The legislature finds that the problems of the large metropolitan areas are unique in this state because of the size and magnitude of the problems when such large numbers of people are affected. The legislature further finds and declares that the strategies and methods for solving these problems in the large metropolitan areas differ from those in the smaller cities and towns and villages of the state, and it is necessary to authorize those home rule metropolitan areas additional powers and flexibility because of the nature and size of their problems and because the governments of such metropolitan areas have sufficient staff to meet and deal with those problems. Further, these authorizations are merely explanations of the powers of home rule communities in these metropolitan areas that can be exercised under home rule authority notwithstanding any limitations contained in the Metropolitan Redevelopment Code."

## **Chapter 329 Section 4 Laws 2007**

Section 4. Section 3-60A-3 NMSA 1978 (being Laws 1979, Chapter 391, Section 3) is amended to read:

### **"3-60A-3. LEGISLATIVE INTENT.--**

A. It is the intent of the legislature by the passage of the Metropolitan Redevelopment Code to authorize municipalities to acquire, own, lease, improve and dispose of properties in a metropolitan redevelopment area to the end that such municipalities may be able to promote industry and develop trade or other economic activity by inducing profit or nonprofit corporations, federal governmental offices, hospitals and manufacturing, industrial, commercial or business enterprises to locate, expand or remain in such area, to mitigate the serious threat of extensive

unemployment in a metropolitan redevelopment area and to secure and maintain a balanced and stable economy in an area declared to be a slum or blighted area.

B. It is the further intent of the legislature to authorize municipalities to acquire, own, lease, improve and dispose of properties so that adequate medical care, residential housing and facilities for the disposal of sewage and solid waste may be provided; and industrial, manufacturing, commercial or business activities may be begun or expanded in these areas; furnishing water, energy and gas may be provided; more adequate facilities for sports events and activities and recreation activities, conventions and trade shows may be provided; more parking facilities or storage or training facilities may be provided; and more adequate research, product-testing and administrative facilities may be provided, all of which promote the public health, welfare, safety, convenience and prosperity.

C. It is, therefore, the intention of the legislature to vest municipalities with all powers, other than the power of eminent domain, that may be necessary to enable them to accomplish such purposes, which powers shall in all respects be exercised for the benefit of the inhabitants of this state and municipalities of the state for the promotion of their health, safety, welfare, convenience and prosperity.

D. It is not intended by the Metropolitan Redevelopment Code to authorize any municipality to operate any manufacturing, industrial, commercial or business enterprise or any research, product-testing or administrative facilities of such enterprise. Nor is it the intent of that code to prohibit the operation by a municipality of residential housing facilities, health care facilities, sewage or solid waste disposal facilities or the furnishing of water, sports or recreation facilities, convention or trade show facilities, airports, public transportation facilities or operations, parking facilities or storage or training facilities by any municipality."

## **Chapter 329 Section 5 Laws 2007**

Section 5. Section 3-60A-10 NMSA 1978 (being Laws 1979, Chapter 391, Section 10) is amended to read:

"3-60A-10. POWERS OF MUNICIPALITY.--A municipality shall have all the powers, other than the power of eminent domain, necessary or convenient to carry out and effectuate the purposes and provisions of the Metropolitan Redevelopment Code, including but not necessarily limited to the following powers:

A. to undertake and carry out metropolitan redevelopment projects within its area of operation, including clearance and redevelopment, rehabilitation, conservation and development activities and programs; to make, enter into and execute contracts and other agreements and instruments necessary or convenient to the exercise of its powers under the Redevelopment Law; and to disseminate information regarding slum clearance, prevention of blight and the metropolitan redevelopment projects and areas;

B. to provide, arrange or contract for the furnishing or repair by a public or private person or agency for services, privileges, works, streets, roads, public utilities, public buildings or other facilities for or in connection with a metropolitan redevelopment project; to, within its area of operation, install, acquire, construct, reconstruct, remodel, rehabilitate, maintain and operate streets, utilities, parks, buildings, playgrounds and public buildings, including but not limited to parking facilities, transportation centers, public safety buildings and other public improvements or facilities or improvements for public purposes, as may be required by the municipality, the state or a political subdivision of the state; to agree to conditions that it may deem reasonable and appropriate that are attached to federal financial assistance and imposed pursuant to federal law, including conditions relating to the determination of prevailing salaries or wages or compliance with federal and state labor standards, compliance with federal property acquisition policy and the provision of relocation assistance in accordance with federal law in the undertaking or carrying out of a metropolitan redevelopment project; and to include in a contract let in connection with the project provisions to fulfill these conditions as it may deem reasonable and appropriate; provided, however, that all purchases of personal property shall be in accordance with the Procurement Code;

C. within its area of operation, to inspect any building or property in a metropolitan redevelopment area in order to make surveys, appraisals, soundings or test borings and to obtain an order for this purpose from a court of competent jurisdiction in the event inspection is denied by the property owner or occupant; to acquire, by purchase, lease, option, gift, grant, bequest, devise or otherwise, any real property or personal property for its administrative or project purposes, together with any improvements thereon; to hold, improve, clear or prepare for redevelopment any such property; to mortgage, pledge, hypothecate or otherwise encumber or dispose of any real property; to insure or provide for the insurance of real or personal property or operations of the municipality against risks or hazards, including the power to pay premiums on that insurance; and to enter into contracts necessary to effectuate the purposes of the Metropolitan Redevelopment Code;

D. to invest metropolitan redevelopment project funds held in reserve, sinking funds or other project funds that are not required for immediate disbursement in property or securities in which municipalities may legally invest funds subject to their control; to redeem bonds as have been issued pursuant to the Metropolitan Redevelopment Code at the redemption price established in the bonds or to purchase the bonds at less than redemption price. Bonds so redeemed or purchased shall be canceled;

E. to borrow or lend money subject to those procedures and limitations as may be provided in the constitution of New Mexico or the Municipal Code and to apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the federal government, the state, the county or other public body or from sources, public or private, for the purposes of the Metropolitan Redevelopment Code; and to give security as may be required and subject to the provisions and limitations of general law except as may otherwise be provided by the Redevelopment

Law and to enter into and carry out contracts in connection with that law. A municipality may include in a contract for financial assistance with the federal government for a metropolitan redevelopment project conditions imposed pursuant to federal law that the municipality may deem reasonable or appropriate and that are not inconsistent with the purposes of the Metropolitan Redevelopment Code;

F. within its area of operation, to make plans necessary for the carrying out of the purposes of the Metropolitan Redevelopment Code and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify and amend the plans. The plans may include without limitation:

(1) a general plan for redevelopment of the metropolitan area as a whole;

(2) redevelopment plans for specific areas;

(3) plans for programs of voluntary or assisted repair and rehabilitation of buildings and improvements;

(4) plans for the enforcement of state and local laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition or removal of buildings and improvements; and

(5) appraisals, title searches, surveys, studies and other preliminary plans and work necessary to prepare for the undertaking of metropolitan redevelopment projects;

G. to develop, test and report methods and techniques and carry out demonstrations and other activities for the prevention and elimination of slums and urban blight and to pay for, accept and use grants of funds from the federal government for those purposes;

H. to prepare plans for the relocation of families displaced from a metropolitan redevelopment area to the extent essential for acquiring possession of and clearing the area or its parts or permit the carrying out of the metropolitan redevelopment project;

I. to appropriate under existing authority the funds and make expenditures necessary to carry out the purposes of the Metropolitan Redevelopment Code and under existing authority to levy taxes and assessments for such purposes; to close, vacate, plan or replan streets, roads, sidewalks, ways or other places; in accordance with applicable law or ordinances, to plan or replan, zone or rezone any part of the municipality or make exceptions from building regulations; and to enter into agreements with a metropolitan redevelopment agency vested with metropolitan redevelopment project powers, which agreements may extend over any period, notwithstanding any provision or rule of law to the contrary, respecting action to be taken by the municipality pursuant to the powers granted by the Redevelopment Law;

J. within its area of operation, to organize, coordinate and direct the administration of the provisions of the Redevelopment Law as they apply to the municipality in order that the objective of remedying slum areas and blighted areas and preventing the causes of those areas within the municipality may be most effectively promoted and achieved and to establish any new office of the municipality or to reorganize existing offices as necessary;

K. to acquire real property that is appropriate for the preservation or restoration of historic sites; the beautification of urban land; the conservation of open spaces, natural resources and scenic areas; or the provision of recreational opportunities; or that is to be used for public purposes;

L. to engage in the following activities as part of a metropolitan redevelopment project:

(1) acquisition, construction, reconstruction or installation of public works, facilities and site or other improvements, including but not limited to neighborhood facilities, senior citizen centers, historic properties, utilities, streets, street lights, water and sewer facilities, including connections for residential users, foundations and platforms for air-rights sites, pedestrian malls and walkways, parks, playgrounds and other recreation facilities, flood and drainage facilities, parking facilities, solid waste disposal facilities and fire protection or health facilities that serve designated areas;

(2) special projects directed to the removal of materials and architectural barriers that restrict the mobility and accessibility of elderly and disabled persons;

(3) provision of public services in the metropolitan redevelopment area that are not otherwise available in the area, including but not limited to the provisions of public services directed to the employment, economic development, crime prevention, child care, health, drug abuse, welfare or recreation needs of the people who reside in the metropolitan redevelopment area;

(4) payment of the nonfederal share of any federal grant-in-aid program to the municipality that will be a part of a metropolitan redevelopment project;

(5) if federal funds are used in the project to provide for payment of relocation costs and assistance to individuals, families, businesses, organizations and farm operations displaced as a direct result of a metropolitan redevelopment project in accordance with applicable law governing such payment;

(6) payment of reasonable administrative costs and carrying charges related to the planning and execution of plans and projects;

(7) economic and marketing studies to determine the economic condition of an area and to determine the viability of certain economic ventures proposed for the metropolitan redevelopment area;

(8) issuance of bonds, grants or loans as authorized by the Metropolitan Redevelopment Code in accordance with the requirements of that code; and

(9) grants to nonprofit corporations, local development corporations or entities organized under Section 301 (d) of the federal Small Business Investment Act of 1958 for the purposes of carrying out the provisions of the Metropolitan Redevelopment Code;

M. if payments are to be made by the municipality or metropolitan redevelopment agency under the terms of a contract for reconstruction or rehabilitation of private property payments shall be made from a special fund created for that purpose and shall not be paid directly to the property owner but shall instead be paid to the contractor by the municipality or agency from such fund upon proper authorization of the property owner and notification that the terms of the contract have been fulfilled. However, those rehabilitation contracts shall be between the property owner and the contractor after a sealed bidding procedure and award of contract approved by the municipality has taken place;

N. in a metropolitan redevelopment project or rehabilitation or conservation undertaking or activity, to exercise the following powers in one or more metropolitan redevelopment areas to include the elimination and prevention of the development or spread of slums or blight and may involve slum clearance and redevelopment in that area or rehabilitation or conservation in that area or any combination or part of those areas in accordance with a metropolitan redevelopment plan and for undertakings or activities of a municipality in a metropolitan redevelopment area to eliminate the conditions that caused an area to be so designated and may include the following:

(1) acquisition of real property within the metropolitan redevelopment area pursuant to any powers and for purposes enumerated in the Metropolitan Redevelopment Code;

(2) clearing the land, grading the land and replatting the land in accordance with the metropolitan redevelopment plan; installation, construction or reconstruction of roads, streets, gutters, sidewalks, storm drainage facilities, water lines or water supply installations, sewer lines and sewage disposal installations, steam, gas and electric lines and installations, airport facilities and construction of any other needed public facilities or buildings whether on or off the site if deemed necessary by the local governing body to prepare the land in the metropolitan redevelopment area for residential, commercial, industrial and public use in accordance with the metropolitan redevelopment plan; and

(3) making the land available for development by private enterprise or public agencies, including sale, initial leasing, leasing or retention by the municipality itself, at its fair market value for uses in accordance with the metropolitan redevelopment plan for the area;

O. the municipality is empowered in a metropolitan redevelopment area to undertake slum clearance and redevelopment that includes:

(1) acquisition of a slum area or a blighted area or portion thereof;

(2) demolition and removal of buildings and improvements;

(3) installation, construction, reconstruction, maintenance and operation of streets, utilities, storm drainage facilities, curbs and gutters, parks, playgrounds, single- or multi-family dwelling units, buildings, public buildings, including but not limited to parking facilities, transportation centers, safety buildings and other improvements, necessary for carrying out in the area the provisions of an approved plan for the area; and

(4) making the real property available for development or redevelopment by private enterprise or public agencies, including sale, leasing or retention by the municipality itself, at its fair value for uses in accordance with the metropolitan redevelopment area plan; and

P. to engage in rehabilitation or conservation that includes the restoration and renewal of a slum or blighted area or portion thereof in accordance with any approved plan, by:

(1) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements;

(2) acquisition of real property and demolition or removal of buildings and improvements thereon where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen or increase density, eliminate obsolete or other uses detrimental to the public welfare or to otherwise remove or prevent the spread of blight or deterioration or to provide land for needed public facilities;

(3) installation, construction or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out in the area the provisions of the Metropolitan Redevelopment Code;

(4) the disposition of any property acquired in such an area, including sale, leasing or retention by the municipality itself, for uses in accordance with such an approved plan;

(5) acquisition of real property in the area which, under a plan, is to be repaired or rehabilitated;

(6) repair or rehabilitation of structures within the area;

(7) power to resell repaired or rehabilitated property;

(8) acquisition, without regard to any requirement that the area be a slum or blighted area, of

air-rights in an area consisting principally of land on which is located a highway, railway, bridge or subway tracks or tunnel entrance or other similar facilities that have a blighting influence on the surrounding area and over which air-rights sites are to be developed for the elimination of such blighting influences; and

(9) making loans or grants or authorizing the use of the proceeds of bonds issued pursuant to the Metropolitan Redevelopment Code for the purpose of repairing, remodeling, modifying or otherwise reconstructing a building or buildings located in the metropolitan redevelopment area. Such rehabilitation or conservation with use of funds expended by authority of the Metropolitan Redevelopment Code or by metropolitan revenue bonds authorized by that code shall be authorized only after approval by the local governing body and after it has been determined that such expenditure is in accordance with the metropolitan redevelopment plan for that area."

## **Chapter 329 Section 6 Laws 2007**

Section 6. Section 3-60A-15 NMSA 1978 (being Laws 1979, Chapter 391, Section 15) is amended to read:

### **"3-60A-15. EXERCISE OF POWERS IN CARRYING OUT PROJECTS.--**

A. The local governing body may directly exercise its metropolitan redevelopment project powers or it may, by ordinance if it determines such action to be in the public interest, elect to delegate the exercise of such powers to the metropolitan redevelopment agency created pursuant to the Redevelopment Law. If the local governing body so determines, the agency shall be vested with all of the powers in the same manner as though all the powers were conferred on the agency or authority instead of the municipality.

B. As used in this section, the term "redevelopment project powers" includes any rights, powers, functions and duties of a municipality authorized by the Redevelopment Law except the following, which are reserved to the local governing body; the power to:

(1) declare an area to be a slum or a blighted area or combination thereof and to designate the area as appropriate for a redevelopment project;

(2) approve or amend redevelopment plans;

(3) approve a general plan for the municipality as a whole;

(4) make findings of necessity prior to preparation of a metropolitan redevelopment plan as provided in the Redevelopment Law and the findings and

determinations required prior to approval of a metropolitan redevelopment plan or project as provided in the Redevelopment Law;

(5) issue general obligation bonds and revenue bonds authorized in the Municipal Code;

(6) approve loans or grants;

(7) approve leases of more than one year's duration;

(8) issue municipal redevelopment bonds; and

(9) appropriate funds and levy taxes and assessments."

## **Chapter 329 Section 7 Laws 2007**

Section 7. REPEAL.--Sections 3-46-1 through 3-46-42, 3-46-44, 3-46-45, 3-60-1 through 3-60-37 and 3-60A-11 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-47-

1, Laws 1971, Chapter 200, Section 2, Laws 1969, Chapter 221, Sections 1 through 20, Laws 1971, Chapter 200, Sections 5 through 7, Laws 1965, Chapter 300, Sections 14-47-3 through 14-47-9, Laws 1969, Chapter 279, Section 1, Laws 1965, Chapter 300, Sections 14-47-10 through 14-47-18, Laws 1971, Chapter 200, Section 22, Laws 1975, Chapter 333, Section 2, Laws 1975, Chapter 341, Sections 1 through 37 and Laws 1979, Chapter 391, Section 11, as amended) are repealed.

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Senate Bill 401, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 330**

### **AN ACT**

RELATING TO DEVELOPMENT; REPEALING SECTIONS OF THE URBAN DEVELOPMENT LAW; REPEALING THE COMMUNITY DEVELOPMENT LAW; ADDRESSING THE EMINENT DOMAIN POWER OF MUNICIPALITIES; REMOVING THE ABILITY TO CONDEMN PROPERTY FOR ECONOMIC DEVELOPMENT IN THE METROPOLITAN REDEVELOPMENT CODE; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

## **Chapter 330 Section 1 Laws 2007**

Section 1. Section 3-18-10 NMSA 1978 (being Laws 1973, Chapter 395, Section 1) is amended to read:

"3-18-10. POWER OF EMINENT DOMAIN--PURPOSES--PROCEEDINGS.--

A. Both within the municipal boundary and for a distance not extending beyond the planning and platting jurisdiction of the municipal boundary, a municipality has the power and right of condemnation of private property for public use for the purpose of:

(1) laying out, opening and widening streets, alleys and highways or their approaches; or

(2) constructing, maintaining and operating:

(a) storm drains; or

(b) garbage and refuse disposal areas and plants.

B. A municipality may acquire by eminent domain any property within the municipality:

(1) for park purposes;

(2) to establish cemeteries or mausoleums or to acquire existing cemeteries or mausoleums; or

(3) for the purpose of correcting obsolete or impractical planning and platting of subdivisions. For the purpose of this paragraph, "obsolete or impractical planning and platting" applies only to property that:

(a) was platted prior to 1971;

(b) has remained vacant and unimproved; and

(c) threatens the health, safety and welfare of persons or property due to erosion, flooding and inadequate drainage.

C. Condemnation proceedings pursuant to this section shall be in the manner provided by law."

## **Chapter 330 Section 2 Laws 2007**

Section 2. Section 3-46-43 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-

47-19, as amended) is amended to read:

"3-46-43. ORDINANCES RELATING TO REPAIR, CLOSING AND DEMOLITION OF DWELLINGS UNFIT FOR HUMAN HABITATION--COMPLAINT--SERVICE OF COMPLAINT--APPEAL.--

A. Whenever a municipality finds that there exist dwellings that are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, light or sanitary facilities; or other conditions, including those set forth in Subsection C of this section, rendering the dwellings unsafe and unsanitary or dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of the municipality, power is conferred upon the municipality to require or cause the repair, closing or demolition or removal of the dwellings in the manner provided in this section. "Dwelling" means a building or structure or part thereof used and occupied for human habitation or intended to be so used and includes any appurtenances usually enjoyed in the dwelling.

B. Upon the adoption of an ordinance finding that dwelling conditions of the character described in Subsection A of this section exist, the governing body of the municipality may adopt ordinances relating to the dwellings within the municipality that are unfit for human habitation. The ordinances shall include the following provisions:

(1) a public officer shall be designated or appointed to exercise the powers prescribed by the ordinances;

(2) whenever it appears to the public officer, on the officer's own motion, that a dwelling is unfit for human habitation, the officer shall, if the officer's preliminary investigation discloses a basis for the charges, issue and cause to be served on the owner, every mortgagee of record and all parties in interest in the dwelling, including persons in possession, a complaint stating the charges in that respect. The complaint shall contain a notice that a hearing will be held before the public officer or the officer's designated agent at a place fixed in the complaint not less than ten days nor more than thirty days after the serving of the complaint; that the owner, mortgagee and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and the time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer;

(3) if after the notice and hearing the public officer determines that the dwelling under consideration is unfit for human habitation, the officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner an order in writing that advises the owner of the owner's rights under Subsection E of this section and that:

(a) if the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling, the ordinance of the

municipality shall fix a certain percentage of the cost as being reasonable for that purpose and require the owner, within the time specified in the order, to repair, alter or improve the dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or

(b) if the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, the ordinance of the municipality shall fix a certain percentage of the cost as being reasonable for the purpose, and require the owner, within the time specified in the order, to remove or demolish the dwelling;

(4) if the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered or improved or to be vacated and closed;

(5) if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause the dwelling to be removed or demolished; and

(6) the amount of the cost of the repairs, alterations or improvements or the vacating and closing or the removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred. If the dwelling is removed or demolished by the public officer, the officer shall sell the materials of the dwelling and shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining shall be deposited in the district court by the public officer and shall be secured in the manner as may be directed by the court and shall be disbursed by the court to the persons found to be entitled to the balance by final order or decree of the court.

C. An ordinance adopted by a municipality pursuant to this section shall provide that the public officer may determine a dwelling is unfit for human habitation if the officer finds that conditions exist in the dwelling that are dangerous or injurious to the health, safety or morals of the occupants of the dwelling, the occupants of neighboring dwellings or other residents of the municipality or that have a blighting influence on properties in the area. The conditions may include the following without limitations: defects increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness; overcrowding; inadequate ingress and egress; inadequate drainage; or any violation of health, fire, building or zoning regulations or any other laws or regulations relating to the use of land and the use and occupancy of buildings and improvements. The ordinance may provide additional standards to guide the public officer or the officer's agents or employees in determining the fitness of a dwelling for human habitation.

D. Complaints or orders issued by a public officer pursuant to an ordinance adopted under the provisions of this section shall be served upon persons either personally or by registered mail. If the whereabouts of the persons are unknown and

cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer makes an affidavit to that effect, the serving of the complaint or order upon the persons may be made by publishing the complaint or order once each week for two consecutive weeks in a newspaper printed and published in the municipality or, in the absence of a newspaper, in one printed and published in the county and circulating in the municipality in which the dwellings are located. A copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of the complaint or order shall also be filed with the clerk of the county in which the dwelling is located. Filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.

E. A person affected by an order issued by the public officer may file an appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

F. An ordinance adopted by the governing body of the municipality may authorize the public officer to exercise powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this section, including the following powers:

(1) to investigate the dwelling conditions in the municipality in order to determine which dwellings are unfit for human habitation;

(2) to administer oaths and affirmations, examine witnesses and receive evidence;

(3) to enter upon premises for the purpose of making examinations, provided that the entries shall be made in a manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;

(4) to appoint and fix the duties of any officers, agents and employees as the officer deems necessary to carry out the purposes of the ordinances; and

(5) to delegate any functions and powers under the ordinance to officers, agents and employees that the public officer may designate.

G. The governing body of a municipality adopting an ordinance under this section shall, as soon as possible thereafter, prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the dwellings in the municipality for the purpose of determining the fitness of the dwellings for human habitation and for the enforcement and administration of its ordinance or ordinances adopted under this section.

H. Nothing in this section shall be construed to abrogate or impair the powers of the courts or of a department of a municipality to enforce any provisions of its charter or its ordinances or regulations or to prevent or punish violations thereof. The powers

conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

I. Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise."

## **Chapter 330 Section 3 Laws 2007**

Section 3. Section 3-60A-2 NMSA 1978 (being Laws 1979, Chapter 391, Section 2) is amended to read:

### **"3-60A-2. FINDINGS AND DECLARATIONS OF NECESSITY.--**

A. It is found and declared that there exist in municipalities of the state slum areas and blighted areas that constitute a serious and growing menace, injurious to the public health, safety, morals and welfare of the residents of the state; that the existence of these areas contributes substantially to the spread of disease and crime, constitutes an economic and social burden, substantially impairs or arrests the sound and orderly development of municipalities and retards the maintenance and expansion of necessary housing accommodations; that economic and commercial activities are lessened in those areas by the slum or blighted conditions, and the effects of these conditions include less employment in the area and municipality, lower property values, less gross receipts tax revenue for the state and municipalities and reduces the use of buildings, residential dwellings and other facilities in the area that the prevention and elimination of slum areas and blighted areas and the prevention and elimination of conditions that impair the sound and orderly development of municipalities is a matter of state policy and concern in order that the state and its municipalities shall not continue to be endangered by these areas that contribute little to the tax income of the state and its municipalities and that consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization or other forms of public protection, services and facilities.

B. Certain slum areas and blighted areas or portions thereof may require land acquisition and clearance by the municipality, since prevailing conditions may make impracticable their reclamation or development; other areas or portions of the slum or blighted area may be suitable for conservation or rehabilitation efforts and the conditions and evils enumerated in Subsection A of this section may be eliminated, remedied or prevented by those efforts; and to the extent feasible, salvageable slum and blighted areas should be conserved and rehabilitated through voluntary action, the regulatory process and, when necessary, by government assistance.

C. The powers conferred by the Metropolitan Redevelopment Code regarding the use of public money are for public uses or purposes for which public money may be expended. The individual benefits accruing to persons as the result of the powers conferred by the Metropolitan Redevelopment Code and projects conducted in

accordance with its provisions are found and declared to be incidental to the objectives of that code and are far outweighed by the benefit to the public as a whole. Activities authorized and powers granted by the Metropolitan Redevelopment Code are hereby declared not to result in a donation or aid to any person, association or public or private organization or enterprise. The necessity for these provisions and the power is declared to be in the public interest as a matter of legislative determination.

D. The legislature finds that the problems of the large metropolitan areas are unique in this state because of the size and magnitude of the problems when such large numbers of people are affected. The legislature further finds and declares that the strategies and methods for solving these problems in the large metropolitan areas differ from those in the smaller cities and towns and villages of the state, and it is necessary to authorize those home rule metropolitan areas additional powers and flexibility because of the nature and size of their problems and because the governments of such metropolitan areas have sufficient staff to meet and deal with those problems. Further, these authorizations are merely explanations of the powers of home rule communities in these metropolitan areas that can be exercised under home rule authority notwithstanding any limitations contained in the Metropolitan Redevelopment Code."

## **Chapter 330 Section 4 Laws 2007**

Section 4. Section 3-60A-3 NMSA 1978 (being Laws 1979, Chapter 391, Section 3) is amended to read:

### **"3-60A-3. LEGISLATIVE INTENT.--**

A. It is the intent of the legislature by the passage of the Metropolitan Redevelopment Code to authorize municipalities to acquire, own, lease, improve and dispose of properties in a metropolitan redevelopment area to the end that such municipalities may be able to promote industry and develop trade or other economic activity by inducing profit or nonprofit corporations, federal governmental offices, hospitals and manufacturing, industrial, commercial or business enterprises to locate, expand or remain in such area, to mitigate the serious threat of extensive unemployment in a metropolitan redevelopment area and to secure and maintain a balanced and stable economy in an area declared to be a slum or blighted area.

B. It is the further intent of the legislature to authorize municipalities to acquire, own, lease, improve and dispose of properties so that adequate medical care, residential housing and facilities for the disposal of sewage and solid waste may be provided; and industrial, manufacturing, commercial or business activities may be begun or expanded in these areas; furnishing water, energy and gas may be provided; more adequate facilities for sports events and activities and recreation activities, conventions and trade shows may be provided; more parking facilities or storage or training facilities may be provided; and more adequate research, product-testing and administrative facilities may be provided, all of which promote the public health, welfare, safety, convenience and prosperity.

C. It is, therefore, the intention of the legislature to vest municipalities with all powers, other than the power of eminent domain, that may be necessary to enable them to accomplish such purposes, which powers shall in all respects be exercised for the benefit of the inhabitants of this state and municipalities of the state for the promotion of their health, safety, welfare, convenience and prosperity.

D. It is not intended by the Metropolitan Redevelopment Code to authorize any municipality to operate any manufacturing, industrial, commercial or business enterprise or any research, product-testing or administrative facilities of such enterprise. Nor is it the intent of that code to prohibit the operation by a municipality of residential housing facilities, health care facilities, sewage or solid waste disposal facilities or the furnishing of water, sports or recreation facilities, convention or trade show facilities, airports, public transportation facilities or operations, parking facilities or storage or training facilities by any municipality."

## **Chapter 330 Section 5 Laws 2007**

Section 5. Section 3-60A-10 NMSA 1978 (being Laws 1979, Chapter 391, Section 10) is amended to read:

"3-60A-10. POWERS OF MUNICIPALITY.--A municipality shall have all the powers, other than the power of eminent domain, necessary or convenient to carry out and effectuate the purposes and provisions of the Metropolitan Redevelopment Code, including but not necessarily limited to the following powers:

A. to undertake and carry out metropolitan redevelopment projects within its area of operation, including clearance and redevelopment, rehabilitation, conservation and development activities and programs; to make, enter into and execute contracts and other agreements and instruments necessary or convenient to the exercise of its powers under the Redevelopment Law; and to disseminate information regarding slum clearance, prevention of blight and the metropolitan redevelopment projects and areas;

B. to provide, arrange or contract for the furnishing or repair by a public or private person or agency for services, privileges, works, streets, roads, public utilities, public buildings or other facilities for or in connection with a metropolitan redevelopment project; to, within its area of operation, install, acquire, construct, reconstruct, remodel, rehabilitate, maintain and operate streets, utilities, parks, buildings, playgrounds and public buildings, including but not limited to parking facilities, transportation centers, public safety buildings and other public improvements or facilities or improvements for public purposes, as may be required by the municipality, the state or a political subdivision of the state; to agree to conditions that it may deem reasonable and appropriate that are attached to federal financial assistance and imposed pursuant to federal law, including conditions relating to the determination of prevailing salaries or wages or compliance with federal and state labor standards, compliance with federal property acquisition policy and the provision of relocation assistance in accordance with federal law in the undertaking or carrying out of a metropolitan redevelopment project;

and to include in a contract let in connection with the project provisions to fulfill these conditions as it may deem reasonable and appropriate; provided, however, that all purchases of personal property shall be in accordance with the Procurement Code;

C. within its area of operation, to inspect any building or property in a metropolitan redevelopment area in order to make surveys, appraisals, soundings or test borings and to obtain an order for this purpose from a court of competent jurisdiction in the event inspection is denied by the property owner or occupant; to acquire, by purchase, lease, option, gift, grant, bequest, devise or otherwise, any real property or personal property for its administrative or project purposes, together with any improvements thereon; to hold, improve, clear or prepare for redevelopment any such property; to mortgage, pledge, hypothecate or otherwise encumber or dispose of any real property; to insure or provide for the insurance of real or personal property or operations of the municipality against risks or hazards, including the power to pay premiums on that insurance; and to enter into contracts necessary to effectuate the purposes of the Metropolitan Redevelopment Code;

D. to invest metropolitan redevelopment project funds held in reserve, sinking funds or other project funds that are not required for immediate disbursement in property or securities in which municipalities may legally invest funds subject to their control; to redeem bonds as have been issued pursuant to the Metropolitan Redevelopment Code at the redemption price established in the bonds or to purchase the bonds at less than redemption price. Bonds so redeemed or purchased shall be canceled;

E. to borrow or lend money subject to those procedures and limitations as may be provided in the constitution of New Mexico or the Municipal Code and to apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the federal government, the state, the county or other public body or from sources, public or private, for the purposes of the Metropolitan Redevelopment Code; and to give security as may be required and subject to the provisions and limitations of general law except as may otherwise be provided by the Redevelopment Law and to enter into and carry out contracts in connection with that law. A municipality may include in a contract for financial assistance with the federal government for a metropolitan redevelopment project conditions imposed pursuant to federal law that the municipality may deem reasonable or appropriate and that are not inconsistent with the purposes of the Metropolitan Redevelopment Code;

F. within its area of operation, to make plans necessary for the carrying out of the purposes of the Metropolitan Redevelopment Code and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify and amend the plans. The plans may include without limitation:

- (1) a general plan for redevelopment of the metropolitan area as a whole;
- (2) redevelopment plans for specific areas;

(3) plans for programs of voluntary or assisted repair and rehabilitation of buildings and improvements;

(4) plans for the enforcement of state and local laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition or removal of buildings and improvements; and

(5) appraisals, title searches, surveys, studies and other preliminary plans and work necessary to prepare for the undertaking of metropolitan redevelopment projects;

G. to develop, test and report methods and techniques and carry out demonstrations and other activities for the prevention and elimination of slums and urban blight and to pay for, accept and use grants of funds from the federal government for those purposes;

H. to prepare plans for the relocation of families displaced from a metropolitan redevelopment area to the extent essential for acquiring possession of and clearing the area or its parts or permit the carrying out of the metropolitan redevelopment project;

I. to appropriate under existing authority the funds and make expenditures necessary to carry out the purposes of the Metropolitan Redevelopment Code and under existing authority to levy taxes and assessments for such purposes; to close, vacate, plan or replan streets, roads, sidewalks, ways or other places; in accordance with applicable law or ordinances, to plan or replan, zone or rezone any part of the municipality or make exceptions from building regulations; and to enter into agreements with a metropolitan redevelopment agency vested with metropolitan redevelopment project powers, which agreements may extend over any period, notwithstanding any provision or rule of law to the contrary, respecting action to be taken by the municipality pursuant to the powers granted by the Redevelopment Law;

J. within its area of operation, to organize, coordinate and direct the administration of the provisions of the Redevelopment Law as they apply to the municipality in order that the objective of remedying slum areas and blighted areas and preventing the causes of those areas within the municipality may be most effectively promoted and achieved and to establish any new office of the municipality or to reorganize existing offices as necessary;

K. to acquire real property that is appropriate for the preservation or restoration of historic sites; the beautification of urban land; the conservation of open spaces, natural resources and scenic areas; or the provision of recreational opportunities; or that is to be used for public purposes;

L. to engage in the following activities as part of a metropolitan redevelopment project:

(1) acquisition, construction, reconstruction or installation of public works, facilities and site or other improvements, including but not limited to neighborhood facilities, senior citizen centers, historic properties, utilities, streets, street lights, water and sewer facilities, including connections for residential users, foundations and platforms for air-rights sites, pedestrian malls and walkways, parks, playgrounds and other recreation facilities, flood and drainage facilities, parking facilities, solid waste disposal facilities and fire protection or health facilities that serve designated areas;

(2) special projects directed to the removal of materials and architectural barriers that restrict the mobility and accessibility of elderly and disabled persons;

(3) provision of public services in the metropolitan redevelopment area that are not otherwise available in the area, including but not limited to the provisions of public services directed to the employment, economic development, crime prevention, child care, health, drug abuse, welfare or recreation needs of the people who reside in the metropolitan redevelopment area;

(4) payment of the nonfederal share of any federal grant-in-aid program to the municipality that will be a part of a metropolitan redevelopment project;

(5) if federal funds are used in the project to provide for payment of relocation costs and assistance to individuals, families, businesses, organizations and farm operations displaced as a direct result of a metropolitan redevelopment project in accordance with applicable law governing such payment;

(6) payment of reasonable administrative costs and carrying charges related to the planning and execution of plans and projects;

(7) economic and marketing studies to determine the economic condition of an area and to determine the viability of certain economic ventures proposed for the metropolitan redevelopment area;

(8) issuance of bonds, grants or loans as authorized by the Metropolitan Redevelopment Code in accordance with the requirements of that code; and

(9) grants to nonprofit corporations, local development corporations or entities organized under Section 301 (d) of the federal Small Business Investment Act of 1958 for the purposes of carrying out the provisions of the Metropolitan Redevelopment Code;

M. if payments are to be made by the municipality or metropolitan redevelopment agency under the terms of a contract for reconstruction or rehabilitation of private property payments shall be made from a special fund created for that purpose and shall not be paid directly to the property owner but shall instead be paid to the contractor by the municipality or agency from such fund upon proper authorization of the property owner and notification that the terms of the contract have been fulfilled. However, those

rehabilitation contracts shall be between the property owner and the contractor after a sealed bidding procedure and award of contract approved by the municipality has taken place;

N. in a metropolitan redevelopment project or rehabilitation or conservation undertaking or activity, to exercise the following powers in one or more metropolitan redevelopment areas to include the elimination and prevention of the development or spread of slums or blight and may involve slum clearance and redevelopment in that area or rehabilitation or conservation in that area or any combination or part of those areas in accordance with a metropolitan redevelopment plan and for undertakings or activities of a municipality in a metropolitan redevelopment area to eliminate the conditions that caused an area to be so designated and may include the following:

(1) acquisition of real property within the metropolitan redevelopment area pursuant to any powers and for purposes enumerated in the Metropolitan Redevelopment Code;

(2) clearing the land, grading the land and replatting the land in accordance with the metropolitan redevelopment plan; installation, construction or reconstruction of roads, streets, gutters, sidewalks, storm drainage facilities, water lines or water supply installations, sewer lines and sewage disposal installations, steam, gas and electric lines and installations, airport facilities and construction of any other needed public facilities or buildings whether on or off the site if deemed necessary by the local governing body to prepare the land in the metropolitan redevelopment area for residential, commercial, industrial and public use in accordance with the metropolitan redevelopment plan; and

(3) making the land available for development by private enterprise or public agencies, including sale, initial leasing, leasing or retention by the municipality itself, at its fair market value for uses in accordance with the metropolitan redevelopment plan for the area;

O. the municipality is empowered in a metropolitan redevelopment area to undertake slum clearance and redevelopment that includes:

(1) acquisition of a slum area or a blighted area or portion thereof;

(2) demolition and removal of buildings and improvements;

(3) installation, construction, reconstruction, maintenance and operation of streets, utilities, storm drainage facilities, curbs and gutters, parks, playgrounds, single- or multi-family dwelling units, buildings, public buildings, including but not limited to parking facilities, transportation centers, safety buildings and other improvements, necessary for carrying out in the area the provisions of an approved plan for the area; and

(4) making the real property available for development or redevelopment by private enterprise or public agencies, including sale, leasing or retention by the municipality itself, at its fair value for uses in accordance with the metropolitan redevelopment area plan; and

P. to engage in rehabilitation or conservation that includes the restoration and renewal of a slum or blighted area or portion thereof in accordance with any approved plan, by:

(1) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements;

(2) acquisition of real property and demolition or removal of buildings and improvements thereon where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen or increase density, eliminate obsolete or other uses detrimental to the public welfare or to otherwise remove or prevent the spread of blight or deterioration or to provide land for needed public facilities;

(3) installation, construction or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out in the area the provisions of the Metropolitan Redevelopment Code;

(4) the disposition of any property acquired in such an area, including sale, leasing or retention by the municipality itself, for uses in accordance with such an approved plan;

(5) acquisition of real property in the area which, under a plan, is to be repaired or rehabilitated;

(6) repair or rehabilitation of structures within the area;

(7) power to resell repaired or rehabilitated property;

(8) acquisition, without regard to any requirement that the area be a slum or blighted area, of air-rights in an area consisting principally of land on which is located a highway, railway, bridge or subway tracks or tunnel entrance or other similar facilities that have a blighting influence on the surrounding area and over which air-rights sites are to be developed for the elimination of such blighting influences; and

(9) making loans or grants or authorizing the use of the proceeds of bonds issued pursuant to the Metropolitan Redevelopment Code for the purpose of repairing, remodeling, modifying or otherwise reconstructing a building or buildings located in the metropolitan redevelopment area. Such rehabilitation or conservation with use of funds expended by authority of the Metropolitan Redevelopment Code or by metropolitan revenue bonds authorized by that code shall be authorized only after approval by the

local governing body and after it has been determined that such expenditure is in accordance with the metropolitan redevelopment plan for that area."

## **Chapter 330 Section 6 Laws 2007**

Section 6. Section 3-60A-15 NMSA 1978 (being Laws 1979, Chapter 391, Section 15) is amended to read:

### **"3-60A-15. EXERCISE OF POWERS IN CARRYING OUT PROJECTS.--**

A. The local governing body may directly exercise its metropolitan redevelopment project powers or it may, by ordinance if it determines such action to be in the public interest, elect to delegate the exercise of such powers to the metropolitan redevelopment agency created pursuant to the Redevelopment Law. If the local governing body so determines, the agency shall be vested with all of the powers in the same manner as though all the powers were conferred on the agency or authority instead of the municipality.

B. As used in this section, the term "redevelopment project powers" includes any rights, powers, functions and duties of a municipality authorized by the Redevelopment Law except the following, which are reserved to the local governing body; the power to:

(1) declare an area to be a slum or a blighted area or combination thereof and to designate the area as appropriate for a redevelopment project;

(2) approve or amend redevelopment plans;

(3) approve a general plan for the municipality as a whole;

(4) make findings of necessity prior to preparation of a metropolitan redevelopment plan as provided in the Redevelopment Law and the findings and determinations required prior to approval of a metropolitan redevelopment plan or project as provided in the Redevelopment Law;

(5) issue general obligation bonds and revenue bonds authorized in the Municipal Code;

(6) approve loans or grants;

(7) approve leases of more than one year's duration;

(8) issue municipal redevelopment bonds; and

(9) appropriate funds and levy taxes and assessments."

## **Chapter 330 Section 7 Laws 2007**

Section 7. REPEAL.--Sections 3-46-1 through 3-46-42, 3-46-44, 3-46-45, 3-60-1 through 3-60-37 and 3-60A-11 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-47-

1, Laws 1971, Chapter 200, Section 2, Laws 1969, Chapter 221, Sections 1 through 20, Laws 1971, Chapter 200, Sections 5 through 7, Laws 1965, Chapter 300, Sections 14-47-3 through 14-47-9, Laws 1969, Chapter 279, Section 1, Laws 1965, Chapter 300, Sections 14-47-10 through 14-47-18, Laws 1971, Chapter 200, Section 22, Laws 1975, Chapter 333, Section 2, Laws 1975, Chapter 341, Sections 1 through 37 and Laws 1979, Chapter 391, Section 11, as amended) are repealed.

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House Bill 393, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 331**

### **AN ACT**

RELATING TO TAXATION; INCREASING THE MAXIMUM AGGREGATE TAX RATE ALLOWABLE FOR THE MUNICIPAL GROSS RECEIPTS TAX; ADJUSTING DISTRIBUTIONS TO MUNICIPALITIES AND COUNTIES TO OFFSET THE FOOD AND HEALTH CARE PRACTITIONER SERVICES DEDUCTIONS IN THE GROSS RECEIPTS TAX; PROVIDING FOR A DISTRIBUTION EQUIVALENT TO A PORTION OF COMPENSATING TAX TO MUNICIPALITIES; MAKING AN APPROPRIATION.

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

### **Chapter 331 Section 1 Laws 2007**

Section 1. Section 7-1-6.15 NMSA 1978 (being Laws 1983, Chapter 211, Section 20, as amended) is amended to read:

"7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO MUNICIPALITIES OR COUNTIES.--

A. The provisions of this section apply to:

(1) any distribution to a municipality of gross receipts taxes pursuant to Section 7-1-6.4 NMSA 1978 or of interstate telecommunications gross receipts tax pursuant to Section 7-1-6.36 NMSA 1978;

(2) any transfer to a municipality with respect to any local option gross receipts tax imposed by that municipality;

(3) any transfer to a county with respect to any local option gross receipts tax imposed by that county;

(4) any distribution to a county pursuant to Section 7-1-6.16 NMSA 1978;

(5) any distribution to a municipality or a county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;

(6) any transfer to a county with respect to any tax imposed in accordance with the Local Liquor Excise Tax Act;

(7) any distribution to a municipality or a county of cigarette taxes pursuant to Sections 7-1-6.11, 7-12-15 and 7-12-16 NMSA 1978;

(8) any distribution to a county from the county government road fund pursuant to Section 7-1-6.26 NMSA 1978;

(9) any distribution to a municipality of gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978; and

(10) any distribution to a municipality of compensating taxes pursuant to Section 7-1-6.55 NMSA 1978.

B. If the secretary determines that any prior distribution or transfer to a political subdivision was erroneous, the secretary shall increase or decrease the next distribution or transfer amount for that political subdivision after the determination, except as provided in Subsection C, D or E of this section, by the amount necessary to correct the error. Subject to the provisions of Subsection E of this section, the secretary shall notify the political subdivision of the amount of each increase or decrease.

C. No decrease shall be made to current or future distributions or transfers to a political subdivision for any excess distribution or transfer made to that political subdivision more than one year prior to the calendar year in which the determination of the secretary was made.

D. The secretary, in lieu of recovery from the next distribution or transfer amount, may recover an excess distribution or transfer of one hundred dollars (\$100) or more to the political subdivision in installments from current and future distributions or transfers to that political subdivision pursuant to an agreement with the officials of the political subdivision whenever the amount of the distribution or transfer decrease for the political subdivision exceeds ten percent of the average distribution or transfer amount for that political subdivision for the twelve months preceding the month in which the secretary's determination is made; provided that for the purposes of this subsection, the "average distribution or transfer amount" shall be the arithmetic mean of the distribution or transfer amounts within the twelve months immediately preceding the month in which the determination is made.

E. Except for the provisions of this section, if the amount by which a distribution or transfer would be adjusted pursuant to Subsection B of this section is one hundred dollars (\$100) or less, no adjustment or notice need be made.

F. The secretary is authorized to decrease a distribution to a municipality or county upon being directed to do so by the secretary of finance and administration pursuant to the State Aid Intercept Act or to redirect a distribution to the New Mexico finance authority pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement of the municipality or county and the New Mexico finance authority. Upon direction to decrease a distribution or notice to redirect a distribution to a municipality or county, the secretary shall decrease or redirect the next designated distribution, and succeeding distributions as necessary, by the amount of the state distributions intercept authorized by the secretary of finance and administration pursuant to the State Aid Intercept Act or by the amount of the state distribution intercept authorized pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement with the New Mexico finance authority. The secretary shall transfer the state distributions intercept amount to the municipal or county treasurer or other person designated by the secretary of finance and administration or to the New Mexico finance authority pursuant to written agreement to pay the debt service to avoid default on qualified local revenue bonds or meet other local revenue bond, loan or other debt obligations of the municipality or county to the New Mexico finance authority."

## **Chapter 331 Section 2 Laws 2007**

Section 2. Section 7-1-6.46 NMSA 1978 (being Laws 2004, Chapter 116, Section 1, as amended) is amended to read:

"7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to a municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the sum of:

(1) for a municipality having a population of less than ten thousand according to the most recent federal decennial census and having per capita taxable gross receipts for the previous calendar year that are less than the average per capita taxable gross receipts for all municipalities for that same calendar year:

(a) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality for the month plus one and two hundred twenty-five thousandths percent; and

(b) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality for the month plus one and two hundred twenty-five thousandths percent; or

(2) for a municipality not described in Paragraph (1) of this subsection:

(a) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2007 plus one and two hundred twenty-five thousandths percent; and

(b) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2007 plus one and two hundred twenty-five thousandths percent.

B. The distribution pursuant to Subsection A of this section is in lieu of revenue that would have been received by the municipality but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall be considered gross receipts tax revenue and shall be used by the municipality in the same manner as gross receipts tax revenue, including payment of gross receipts tax revenue bonds.

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

(1) within the municipality;

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

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

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

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

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

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

## **Chapter 331 Section 3 Laws 2007**

Section 3. Section 7-1-6.47 NMSA 1978 (being Laws 2004, Chapter 116, Section 2, as amended) is amended to read:

"7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to a county in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the sum of:

(1) for a county having a population of less than forty-eight thousand according to the most recent federal decennial census:

(a) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed throughout the county;

(b) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed in the county area not within a municipality;

(c) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed throughout the county; and

(d) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed in the county area not within a municipality; or

(2) for a county not described in Paragraph (1) of this subsection:

(a) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed throughout the county;

(b) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed in the county area not within a municipality;

(c) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed throughout the county; and

(d) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed in the county area not within a municipality.

B. The distribution pursuant to Subsection A of this section is in lieu of revenue that would have been received by the county but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall be considered gross receipts tax revenue and shall be used by the county in the same manner as gross receipts tax revenue, including payment of gross receipts tax revenue bonds.

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

## **Chapter 331 Section 4 Laws 2007**

Section 4. A new section of the Tax Administration Act, Section 7-1-6.55 NMSA 1978, is enacted to read:

"7-1-6.55. DISTRIBUTION TO MUNICIPALITY EQUIVALENT TO A PORTION OF COMPENSATING TAX.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality in an amount calculated pursuant to Subsection B of this section, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978; provided that the distribution shall be phased in according to the following schedule:

(1) from July 1, 2008 until June 30, 2009, the distribution shall be equal to ten percent of the amount calculated according to Subsection B of this section; and

(2) on or after July 1, 2009, the distribution shall be equal to thirty percent of the amount calculated according to Subsection B of this section.

B. The amount of the distribution provided for in this section shall be calculated for each month in the six-month period beginning on each July 1 and January 1 and shall be equal to the reported taxable gross receipts for all business locations in the municipality for the month multiplied by:

(1) the ratio of net compensating tax receipts for the entire six-month period beginning the previous November 1 or May 1, respectively, to the reported taxable gross receipts for all business locations for the entire six-month period beginning the previous November 1 or May 1, respectively; and further multiplied by:

(2) the ratio of one and two hundred twenty-five thousandths percent to the average tax rate imposed by Section 7-9-7 NMSA 1978 in effect for the six-month period beginning on January 1 or July 1, respectively."

## **Chapter 331 Section 5 Laws 2007**

Section 5. Section 7-19D-9 NMSA 1978 (being Laws 1978, Chapter 151, Section 1, as amended) is amended to read:

"7-19D-9. MUNICIPAL GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE RATE.--

A. The majority of the members of the governing body of any municipality may impose by ordinance an excise tax not to exceed a rate of one and one-half percent of the gross receipts of any person engaging in business in the municipality for the privilege of engaging in business in the municipality. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances, each imposing any number of municipal gross receipts tax rate increments, but the total municipal gross receipts tax rate imposed by all ordinances shall not exceed an aggregate rate of one and one-half percent of the gross receipts of a person engaging in business. Municipalities may impose increments of one-eighth of one percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "municipal gross receipts tax".

C. The governing body of a municipality may, at the time of enacting an ordinance imposing the tax authorized in Subsection A of this section, dedicate the revenue for a specific purpose or area of municipal government services, including but not limited to police protection, fire protection, public transportation or street repair and maintenance. If the governing body proposes to dedicate such revenue, the ordinance

and, if any election is held, the ballot shall clearly state the purpose to which the revenue will be dedicated, and any revenue so dedicated shall be used by the municipality for that purpose unless a subsequent ordinance is adopted to change the purpose to which dedicated or to place the revenue in the general fund of the municipality.

D. An election shall be called on the questions of disapproval or approval of any ordinance enacted pursuant to Subsection A of this section or any ordinance amending such ordinance:

(1) if the governing body chooses to provide in the ordinance that it shall not be effective until the ordinance is approved by the majority of the registered voters voting on the question at an election to be held pursuant to the provisions of a home-rule charter or on a date set by the governing body and pursuant to the provisions of the Municipal Election Code governing special elections; or

(2) if the ordinance does not contain a mandatory election provision as provided in Paragraph (1) of this subsection, upon the filing of a petition requesting such an election if the petition is filed:

(a) pursuant to the requirements of a referendum provision contained in a municipal home-rule charter and signed by the number of registered voters in the municipality equal to the number of registered voters required in its charter to seek a referendum; or

(b) in all other municipalities, with the municipal clerk within thirty days after the adoption of such ordinance and the petition has been signed by a number of registered voters in the municipality equal to at least five percent of the number of the voters in the municipality who were registered to vote in the most recent regular municipal election.

E. The signatures on the petition filed in accordance with Subsection D of this section shall be verified by the municipal clerk. If the petition is verified by the municipal clerk as containing the required number of signatures of registered voters, the governing body shall adopt an election resolution calling for the holding of a special election on the question of approving or disapproving the ordinance unless the ordinance is repealed before the adoption of the election resolution. An election held pursuant to Subparagraph (a) or (b) of Paragraph (2) of Subsection D of this section shall be called, conducted and canvassed as provided in the Municipal Election Code for special elections, and the election shall be held within seventy-five days after the date the petition is verified by the municipal clerk or it may be held in conjunction with a regular municipal election if such election occurs within seventy-five days after the date of verification by the municipal clerk.

F. If at an election called pursuant to Subsection D of this section a majority of the registered voters voting on the question approves the ordinance imposing the tax,

the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If at such an election a majority of the registered voters voting on the question disapproves the ordinance, the ordinance imposing the tax shall be deemed repealed and the question of imposing any increment of the municipal gross receipts tax authorized in this section shall not be considered again by the governing body for a period of one year from the date of the election.

G. Any municipality that has lawfully imposed by the requirements of the Special Municipal Gross Receipts Tax Act a rate of at least one-fourth of one percent shall be deemed to have imposed one-fourth of one percent municipal gross receipts tax pursuant to this section. Any rate of tax deemed to be imposed pursuant to this subsection shall continue to be dedicated to the payment of outstanding bonds issued by the municipality that pledged the tax revenues by ordinance until such time as the bonds are fully paid. A municipality may by ordinance change the purpose for any rate of tax deemed to be imposed at any time the revenues are not committed to payment of bonds.

H. Any law that imposes or authorizes the imposition of a municipal gross receipts tax or that affects the municipal gross receipts tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal gross receipts tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor."

## **Chapter 331 Section 6 Laws 2007**

Section 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 981, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 332**

AN ACT

RELATING TO CRIMINAL OFFENSES; PROVIDING FOR LIABILITY FOR COSTS INCURRED FOR FIGHTING A FOREST FIRE AND FOR DAMAGES; PROVIDING FOR ARREST FOR VIOLATION OF FOREST FIRE LAWS; REPEALING SECTION 30-

32-2 NMSA 1978 (BEING LAWS 1921, CHAPTER 33, SECTION 5, AS AMENDED).

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

### **Chapter 332 Section 1 Laws 2007**

Section 1. Section 30-32-1 NMSA 1978 (being Laws 1921, Chapter 33, Section 4, as amended) is amended to read:

"30-32-1. FIRES EXTINGUISHED BY OFFICERS--RESPONSIBILITY FOR COSTS.--

A. As used in this section, "forest fire" means a fire burning uncontrolled on lands covered wholly or in part by timber, brush, grass, grain or other inflammable vegetation.

B. A person who willfully or recklessly sets a forest fire or causes a forest fire to be set for which efforts to control or extinguish the fire are exerted by the forestry division of the energy, minerals and natural resources department; an agency under agreement with the energy, minerals and natural resources department; a county or municipality; or any fire protection agency of the United States may be liable for the costs incurred, including expenses for fighting the fire and costs of investigation.

### **Chapter 332 Section 2 Laws 2007**

Section 2. Section 30-32-3 NMSA 1978 (being Laws 1921, Chapter 33, Section 6) is amended to read:

"30-32-3. ARREST FOR VIOLATIONS.--All peace officers of the state, including department of game and fish conservation officers, have the power to make arrests on warrant issued by any magistrate of the state for violation of any of the state forest fire laws, including Chapter 68, Article 2 NMSA 1978, rules implementing Chapter 68, Article 2 NMSA 1978 or fire restrictions issued pursuant to such rules, or without warrant for violations of those laws committed in their presence, and shall not be liable to civil action for trespass for acts done in the discharge of their duties."

### **Chapter 332 Section 3 Laws 2007**

Section 3. REPEAL.--Section 30-32-2 NMSA 1978 (being Laws 1921, Chapter 33, Section 5, as amended) is repealed.

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House Bill 919, as amended

Approved April 2, 2007

**LAWS 2007, CHAPTER 333**

AN ACT

RELATING TO COUNTIES; ENACTING THE COUNTY DETENTION FACILITY REIMBURSEMENT ACT; PROVIDING REIMBURSEMENT TO COUNTIES FOR THE COSTS OF INCARCERATION OF CERTAIN PERSONS CONVICTED OF A FELONY; CREATING THE COUNTY DETENTION FACILITY REIMBURSEMENT FUND.

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

**Chapter 333 Section 1 Laws 2007**

Section 1. SHORT TITLE.--This act may be cited as the "County Detention Facility Reimbursement Act".

**Chapter 333 Section 2 Laws 2007**

Section 2. DEFINITIONS.--As used in the County Detention Facility Reimbursement Act:

A. "county detention facility" means a facility that is owned, operated or under contract of operation by a board of county commissioners and that is used for the incarceration of prisoners charged with or convicted of a violation of local, state, tribal, federal or international law;

B. "division" means the local government division of the department of finance and administration;

C. "dual supervision offender" means an individual who is serving a probation term and a parole term;

D. "eligible county" means a county that provides information to the New Mexico sentencing commission regarding costs incurred by the county for the incarceration of felony offenders;

E. "felony offender" means an individual who is convicted of a felony and sentenced to confinement in a correctional facility designated by the corrections department and who:

(1) has been released from confinement and is a dual supervision offender and:

(a) has violated parole or is charged with a parole violation;

(b) has violated probation or is charged with a probation violation;

or

(c) while on probation or parole, is charged with a violation of local, state, tribal, federal or international law;

(2) has been released from confinement and is serving a parole term and:

(a) has violated parole or is charged with a parole violation; or

(b) while on parole, is charged with a violation of local, state, tribal, federal or international law; or

(3) is awaiting transportation and commitment to the corrections department following the revocation of parole or a sentencing hearing for a felony conviction; and

F. "fund" means the county detention facility reimbursement fund.

## **Chapter 333 Section 3 Laws 2007**

### **Section 3. INCARCERATION OF FELONY OFFENDERS IN COUNTY DETENTION FACILITIES--RATE OF REIMBURSEMENT.--**

A. The distribution amount for each eligible county each fiscal year shall be derived by multiplying the total amount of money available in the fund for distribution pursuant to this section by the felony offender incarceration percentage for that county. The felony offender incarceration percentage shall be equal to a fraction:

(1) the numerator of which is the rolling average of the number of felony offenders incarcerated in an eligible county on June 30 of each of the three fiscal years immediately preceding the fiscal year in which the distribution is to be made pursuant to Section 4 of the County Detention Facility Reimbursement Act; and

(2) the denominator of which is the rolling average of the number of felony offenders incarcerated in all eligible counties on June 30 of each of the three fiscal years immediately preceding the fiscal year in which the distribution is to be made pursuant to Section 4 of the County Detention Facility Reimbursement Act.

B. Annually, on or before December 1, the New Mexico sentencing commission shall:

(1) determine the felony offender incarceration percentage for each eligible county;

(2) calculate the distribution amount for each eligible county by applying the formula in Subsection A of this section; and

(3) certify to the division the felony incarceration percentage and the distribution amount for each eligible county.

## **Chapter 333 Section 4 Laws 2007**

### **Section 4. COUNTY DETENTION FACILITY REIMBURSEMENT FUND CREATED--DISTRIBUTION.--**

A. The "county detention facility reimbursement fund" is created in the state treasury. The fund consists of appropriations, gifts, grants, donations and bequests made to the fund. Money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year, and income from investment of the fund shall be credited to the fund. The division shall administer the fund, and money in the fund is appropriated to the division to make distributions to counties in accordance with Subsection B of this section. Disbursements from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the director of the division. No money in the fund shall be expended by the division for the purpose of administering the fund.

B. Annually, on or before January 30 and to the extent money in the fund is available for such purposes, money in the fund shall be distributed by the state treasurer as follows:

(1) an amount equal to seventy percent of the fund less thirty thousand dollars (\$30,000) to eligible counties in the amounts certified to the division in accordance with Section 3 of the County Detention Facility Reimbursement Act;

(2) thirty thousand dollars (\$30,000) to the New Mexico sentencing commission to fund the annual calculation of the felony offender incarceration percentage and the distribution amount for each eligible county; and

(3) the remainder of the fund to counties other than class A counties that are designated by the division as needing additional resources due to inadequate base revenues.

## **Chapter 333 Section 5 Laws 2007**

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 316, as amended

Approved April 2, 2007

# **LAWS 2007, CHAPTER 334**

## **AN ACT**

RELATING TO EXPENDITURE OF PUBLIC MONEY; REAUTHORIZING OR REAPPROPRIATING BALANCES, EXPANDING OR CHANGING PURPOSES, EXTENDING EXPENDITURE PERIODS, CHANGING AGENCIES AND ESTABLISHING CONDITIONS FOR THE REVERSION OF UNEXPENDED BALANCES OF CAPITAL OUTLAY PROJECTS APPROVED BY THE LEGISLATURE; DECLARING AN EMERGENCY.

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

### **Chapter 334 Section 1 Laws 2007**

Section 1. SEVERANCE TAX BONDS--REVERSION OF UNEXPENDED PROCEEDS.--

A. Except as otherwise provided in another section of this act, 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 as follows:

(1) for projects for which severance tax bonds were issued to match federal grants, six months after completion of the projects;

(2) for projects for which severance tax bonds were issued to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the severance tax bonds were issued for the purchase; and

(3) for all other projects for which severance tax bonds were issued, within six months of completion of the project, but no later than the end of fiscal year 2011.

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 334 Section 2 Laws 2007**

Section 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--

A. Except as otherwise provided in another section of this act, the unexpended balance of an appropriation from the general fund or other state fund that has been changed in this act shall revert to the originating fund as follows:

(1) for projects for which appropriation were made to match federal grants, six months after completion of the project;

(2) for projects for which appropriations were made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; educational technology; or equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the appropriation was made for the purchase; and

(3) for all other projects for which appropriations were made, within six months of completion of the project, but no later than the end of fiscal year 2011.

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 334 Section 3 Laws 2007**

Section 3. CHANGES TO GENERAL FUND APPROPRIATIONS MADE IN LAWS 2007, CHAPTER 2.--The following general fund appropriations in the following sections and subsections of Laws 2007, Chapter 2 in the following amounts are changed in the following ways:

A. twenty-five thousand dollars (\$25,000) to the interstate stream commission in Subsection 18 of Section 25 of Chapter 2 of Laws 2007 for improvements to the acequia de la Concepcion in San Miguel county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct road improvements, including drainage, repaving and replacement of existing structures and related improvements, to roads in San Miguel county;

B. one hundred thousand dollars (\$100,000) to the local government division in Subsection 40 of Section 26 of Chapter 2 of Laws 2007 for improvements and facilities at Avalon park in Albuquerque in Bernalillo county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design and construct improvements to the sewer interceptor on Coors boulevard between Yucca drive and Central avenue in Albuquerque;

C. sixty thousand dollars (\$60,000) to the local government division in Subsection 175 of Section 26 of Chapter 2 of Laws 2007 for improvements to the community center in San Geronimo in San Miguel county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design

and construct improvements, including drainage, repaving and replacement of existing structures and related improvements, to roads in San Miguel county;

D. fifty thousand dollars (\$50,000) to the local government division in Subsection 181 of Section 26 of Chapter 2 of Laws 2007 for a humane education and training center in Sandoval county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct improvements, including drainage, repaving and replacement of existing structures and related improvements, to roads in San Miguel county;

E. fifty thousand dollars (\$50,000) to the local government division in Subsection 198 of Section 26 of Chapter 2 of Laws 2007 for a community facility in La Cienega in Santa Fe county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct improvements, including drainage, repaving and replacement of existing structures and related improvements, to roads in San Miguel county;

F. thirty thousand dollars (\$30,000) to the department of transportation in Subsection 43 of Section 30 of Chapter 2 of Laws 2007 for improvements to Blanchard road, county road B-26, shall not be expended for the original purpose but is changed to plan, design and construct road improvements, including drainage, repaving and replacement of existing structures and related improvements, to various roads in San Miguel county;

G. forty thousand dollars (\$40,000) to the department of transportation in Subsection 44 of Section 30 of Chapter 2 of Laws 2007 for improvements to El Cerrito road shall not be expended for the original purpose but is changed to plan, design and construct road improvements, including drainage, repaving and replacement of existing structures and related improvements, to various roads in San Miguel county;

H. fifty-two thousand dollars (\$52,000) to the department of transportation in Subsection 45 of Section 30 of Chapter 2 of Laws 2007 for improvements to roads in San Geronimo shall not be expended for the original purpose but is changed to plan, design and construct road improvements, including drainage, repaving and replacement of existing structures and related improvements, to various roads in San Miguel county;

I. forty-eight thousand dollars (\$48,000) to the department of transportation in Subsection 48 of Section 30 of Chapter 2 of Laws 2007 for improvements to El Valle de los Padres road in Pecos shall not be expended for the original purpose but is changed to plan, design and construct road improvements, including drainage, repaving and replacement of existing structures and related improvements, to various roads in San Miguel county; and

J. twenty-five thousand dollars (\$25,000) to the board of regents of New Mexico highlands university in Subsection 2 of Section 33 of Chapter 2 of Laws 2007 for security equipment at New Mexico highlands university in Las Vegas in San Miguel

county shall not be expended for the original purpose but is appropriated to the local government division to plan, design and renovate the Amador hotel for city use in Las Cruces in Dona Ana county.

## **Chapter 334 Section 4 Laws 2007**

Section 4. CHANGES TO SEVERANCE TAX BOND APPROPRIATIONS MADE IN LAWS 2007, CHAPTER 42.--The following severance tax bond appropriations in the following sections and subsections of Laws 2007, Chapter 42 in the following amounts are changed in the following ways:

A. two million dollars (\$2,000,000) to the capital program fund in Subsection 16 of Section 6 of Chapter 42 of Laws 2007 for capital improvements and renovations at public health clinics statewide is appropriated to the department of health for that purpose;

B. two hundred twenty-five thousand dollars (\$225,000) of the appropriation to the department of transportation in Subsection 12 of Section 26 of Chapter 42 of Laws 2007 for improvements to the north Belen interchange in Valencia county shall not be expended for the original purpose but is appropriated to the local government division of the department of finance and administration to construct, equip and furnish the thirteenth judicial district courthouse in Los Lunas in Valencia county;

C. seventy-five thousand dollars (\$75,000) of the appropriation to the department of transportation in Subsection 12 of Section 26 of Chapter 42 of Laws 2007 for improvements to the north Belen interchange in Valencia county shall not be expended for the original purpose but is appropriated to the local government division to plan, design and construct a business incubator in the southeast heights area of Bernalillo county;

D. two hundred thousand dollars (\$200,000) of the appropriation to the department of transportation in Subsection 12 of Section 26 of Chapter 42 of Laws 2007 for improvements to the north Belen interchange in Valencia county shall not be expended for the original purpose but is appropriated to the local government division to plan, design, construct and equip a fire and police station in Sunland Park in Dona Ana county;

E. one million dollars (\$1,000,000) of the appropriation to the department of transportation in Subsection 12 of Section 26 of Chapter 42 of Laws 2007 for improvements to the north Belen interchange in Valencia county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design, construct and equip the Greentree solid waste transfer station and administration buildings in Lincoln county;

F. two hundred thousand dollars (\$200,000) of the appropriation to the department of transportation in Subsection 12 of Section 26 of Chapter 42 of Laws 2007

for improvements to the north Belen interchange in Valencia county shall not be expended for the original purpose but is appropriated to the local government division to plan, design, construct, equip and furnish the expansion of the San Miguel medical center in San Miguel county;

G. three hundred thousand dollars (\$300,000) of the appropriation to the department of transportation in Subsection 12 of Section 26 of Chapter 42 of Laws 2007 for improvements to the north Belen interchange in Valencia county shall not be expended for the original purpose but is appropriated to the local government division to plan, design and construct improvements to Casa San Ysidro, including a visitor center and a bridge, in Corrales in Sandoval county; and

H. one million dollars (\$1,000,000) of the appropriation to the department of transportation in Subsection 12 of Section 26 of Chapter 42 of Laws 2007 for improvements to the north Belen interchange in Valencia county shall not be expended for the original purpose but is appropriated to the economic development department to acquire ultra-short pulse laser systems to develop new technologies in a range of high-technology applications statewide.

## **Chapter 334 Section 5 Laws 2007**

Section 5. CHANGES TO GENERAL FUND APPROPRIATIONS MADE IN LAWS 2007, CHAPTER 42.--The following general fund appropriations in the following sections and subsections of Laws 2007, Chapter 42 in the following amounts are changed in the following ways:

A. nine hundred twenty-five thousand dollars (\$925,000) to the thirteenth judicial district court in Subsection 3 of Section 52 of Chapter 42 of Laws 2007 to equip and furnish the courthouse for the thirteenth judicial district in Los Lunas in Valencia county is appropriated to the local government division for that purpose and may include completing construction of that facility;

B. twenty-five thousand dollars (\$25,000) of the appropriation to the thirteenth judicial district court in Subsection 3 of Section 52 of Chapter 42 of Laws 2007 for the thirteenth judicial district courthouse in Los Lunas in Valencia county shall not be expended for the original purpose but is appropriated to the department of finance and administration for the New Mexico activities association all-star project;

C. fifty thousand dollars (\$50,000) of the appropriation to the thirteenth judicial district court in Subsection 3 of Section 52 of Chapter 42 of Laws 2007 for the thirteenth judicial district courthouse in Los Lunas in Valencia county shall not be expended for the original purpose but is appropriated to the department of health to support alternative medicine projects in Albuquerque in Bernalillo county;

D. fifty thousand dollars (\$50,000) of the appropriation to the thirteenth judicial district court in Subsection 3 of Section 52 of Chapter 42 of Laws 2007 for the thirteenth

judicial district courthouse in Los Lunas in Valencia county shall not be expended for the original purpose but is appropriated to the board of regents of the university of New Mexico for the college preparatory mentoring for eighth graders project in the Albuquerque public school district in Bernalillo county;

E. twenty-five thousand dollars (\$25,000) of the appropriation to the thirteenth judicial district court in Subsection 3 of Section 52 of Chapter 42 of Laws 2007 for the thirteenth judicial district courthouse in Los Lunas in Valencia county shall not be expended for the original purpose but is appropriated to the board of regents of the university of New Mexico for the inter-American cooperation and development project;

F. twenty-five thousand dollars (\$25,000) of the appropriation to the thirteenth judicial district court in Subsection 3 of Section 52 of Chapter 42 of Laws 2007 for the thirteenth judicial district courthouse in Los Lunas in Valencia county shall not be expended for the original purpose but is appropriated to the board of regents of the university of New Mexico for Native American foundation projects;

G. fifty thousand dollars (\$50,000) of the appropriation to the thirteenth judicial district court in Subsection 3 of Section 52 of Chapter 42 of Laws 2007 for the thirteenth judicial district courthouse in Los Lunas in Valencia county shall not be expended for the original purpose but is appropriated to the board of regents of the university of New Mexico for the regional studies project;

H. fifty thousand dollars (\$50,000) to the energy, minerals and natural resources department in Subsection 1 of Section 56 of Chapter 42 of Laws 2007 to plan, design and construct a multipurpose trail along Fort Selden road in Dona Ana county is appropriated to the department of transportation for that purpose;

I. three hundred thousand dollars (\$300,000) of the appropriation to the local government division in Subsection 420 of Section 68 of Chapter 42 of Laws 2007 for the Animas community center shall not be expended for the original purpose but is changed to plan, design, construct, equip and furnish a detention center in Hidalgo county;

J. two hundred thousand dollars (\$200,000) of the appropriation to the local government division in Subsection 421 of Section 68 of Chapter 42 of Laws 2007 for an emergency management building in Hidalgo county shall not be expended for the original purpose but is changed to plan, design, construct, equip and furnish a detention center in Hidalgo county;

K. one hundred thousand dollars (\$100,000) of the appropriation to the local government division in Subsection 421 of Section 68 of Chapter 42 of Laws 2007 for an emergency management building in Hidalgo county shall not be expended for the original purpose but is appropriated to the public education department for vocational, athletic and playground equipment in the Las Vegas city public school district in San Miguel county;

L. one million dollars (\$1,000,000) to the local government division in Subsection 441 of Section 68 of Chapter 42 of Laws 2007 for an equestrian facility in Lincoln county shall not be expended for the original purpose but is changed to plan, design, construct and equip a civic center in Silver City in Grant county;

M. five hundred thousand dollars (\$500,000) to the local government division in Subsection 580 of Section 68 of Chapter 42 of Laws 2007 to purchase, plan, design, construct and equip exhibits for the international science and engineering fair in Sandoval county is changed for that purpose in Bernalillo county;

N. two hundred fifty thousand dollars (\$250,000) to the department of transportation in Subsection 83 of Section 75 of Chapter 42 of Laws 2007 for an airport in Hagerman shall not be expended for the original purpose but is appropriated to the local government division to plan, design and construct, including infrastructure, an industrial park in Hagerman in Chaves county; and

O. five hundred twenty-five thousand dollars (\$525,000) of the appropriation to the local government division in Subsection 202 of Section 68 of Chapter 42 of Laws 2007 to purchase land for open space in Los Ranchos de Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to purchase land for open space near Anderson fields in Los Ranchos de Albuquerque in Bernalillo county.

## **Chapter 334 Section 6 Laws 2007**

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

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House Taxation and Revenue Committee

Substitute for House Bill 936, as amended

with emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 335**

AN ACT

RELATING TO TAXATION; PROVIDING FOR THE SALE, EXCHANGE OR TRANSFER OF THE INCOME TAX CREDIT AND THE CORPORATE INCOME TAX CREDIT THAT MAY BE CLAIMED FOR CERTAIN CONVEYANCES OF REAL PROPERTY; INCREASING THE AMOUNT OF THE CREDIT.

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

## **Chapter 335 Section 1 Laws 2007**

Section 1. Section 7-2-18.10 NMSA 1978 (being Laws 2003, Chapter 331, Section 7) is amended to read:

### **"7-2-18.10. TAX CREDIT--CERTAIN CONVEYANCES OF REAL PROPERTY.--**

A. There shall be allowed as a credit against the tax liability imposed by the Income Tax Act, an amount equal to fifty percent of the fair market value of land or interest in land that is conveyed for the purpose of open space, natural resource or biodiversity conservation, agricultural preservation or watershed or historic preservation as an unconditional donation in perpetuity by the landowner or taxpayer to a public or private conservation agency eligible to hold the land and interests therein for conservation or preservation purposes. The fair market value of qualified donations made pursuant to this section shall be substantiated by a "qualified appraisal" prepared by a "qualified appraiser", as those terms are defined under applicable federal laws and regulations governing charitable contributions.

B. The amount of the credit that may be claimed by a taxpayer shall not exceed one hundred thousand dollars (\$100,000) for a conveyance made prior to January 1, 2008 and shall not exceed two hundred fifty thousand dollars (\$250,000) for a conveyance made on or after that date. In addition, in a taxable year the credit used may not exceed the amount of individual income tax otherwise due. A portion of the credit that is unused in a taxable year may be carried over for a maximum of twenty consecutive taxable years following the taxable year in which the credit originated until fully expended. A taxpayer may claim only one tax credit per taxable year.

C. Qualified donations shall include the conveyance in perpetuity of a fee interest in real property or a less-than-fee interest in real property, such as a conservation restriction, preservation restriction, agricultural preservation restriction or watershed preservation restriction, pursuant to the Land Use Easement Act and provided that the less-than-fee interest qualifies as a charitable contribution deduction under Section 170(h) of the Internal Revenue Code. Dedications of land for open space for the purpose of fulfilling density requirements to obtain subdivision or building permits shall not be considered as qualified donations pursuant to the Land Conservation Incentives Act.

D. Qualified donations shall be eligible for the tax credit if the donations are made to the state of New Mexico, a political subdivision thereof or a charitable organization described in Section 501(c)(3) of the Internal Revenue Code and that meets the requirements of Section 170(h)(3) of that code.

E. To be eligible for treatment as qualified donations under this section, land or interests in lands must be certified by the secretary of energy, minerals and natural resources as fulfilling the purposes as set forth in Section

75-9-2 NMSA 1978. The use and protection of the lands, or interests therein, for open space, natural area protection, biodiversity habitat conservation, land preservation, agricultural preservation, historic preservation or similar use or purpose of the property shall be assured in perpetuity.

F. A taxpayer may apply for certification of eligibility for the tax credit provided by this section from the energy, minerals and natural resources department. If the energy, minerals and natural resources department determines that the application meets the requirements of this section and that the property conveyed will not adversely affect the property rights of contiguous landowners, it shall issue a certificate of eligibility to the taxpayer, which shall include a calculation of the maximum amount of tax credit for which the taxpayer would be eligible. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection.

G. To receive a credit pursuant to this section, a person shall apply to the taxation and revenue department on forms and in the manner prescribed by the department. The application shall include a certificate of eligibility issued by the energy, minerals and natural resources department pursuant to Subsection F of this section. If all of the requirements of this section have been complied with, the taxation and revenue department shall issue to the applicant a document granting the tax credit. The document shall be numbered for identification and declare its date of issuance and the amount of the tax credit allowed for the qualified donation made pursuant to this section.

H. The tax credit represented by a document issued pursuant to Subsection G of this section for a conveyance made on or after January 1, 2008, or an increment of that tax credit, may be sold, exchanged or otherwise transferred, and may be carried forward for a period of twenty taxable years following the taxable year in which the credit originated until fully expended. A tax credit or increment of a tax credit may only be transferred once. The credit may be transferred to any taxpayer. A taxpayer to whom a credit has been transferred may use the credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but in no event may the transferred credit be used more than twenty years after it was originally issued.

I. A tax credit issued pursuant to this section shall be transferred through a qualified intermediary. The qualified intermediary shall, by means of a sworn notarized statement, notify the taxation and revenue department of the transfer and of the date of the transfer within ten days of the transfer. Credits shall only be transferred in increments of ten thousand dollars (\$10,000) or more. The qualified intermediary shall keep an account of the credits and have the authority to issue sub-numbers registered with the taxation and revenue department and traceable to the original credit.

J. If a charitable deduction is claimed on the taxpayer's federal income tax for any contribution for which the credit provided by this section is claimed, the taxpayer's itemized deductions for New Mexico income tax shall be reduced by the amount of the deduction for the contribution in order to determine the New Mexico taxable income of the taxpayer.

K. For the purposes of this section:

(1) "qualified intermediary" does not include a person who has been previously convicted of a felony, who has had a professional license revoked, who is engaged in the practice defined in Section 61-28B-3 NMSA 1978 and who is identified in Section 61-

29-2 NMSA 1978, and does not include any entity owned wholly or in part or employing any of the foregoing persons; and

(2) "taxpayer" means a citizen or resident of the United States, a domestic partnership, a limited liability company, a domestic corporation, an estate, including a foreign estate, or a trust."

## **Chapter 335 Section 2 Laws 2007**

Section 2. Section 7-2A-8.9 NMSA 1978 (being Laws 2003, Chapter 331, Section 8) is amended to read:

"7-2A-8.9. TAX CREDIT--CERTAIN CONVEYANCES OF REAL PROPERTY.--

A. There shall be allowed as a credit against the tax liability imposed by the Corporate Income and Franchise Tax Act an amount equal to fifty percent of the fair market value of land or interest in land that is conveyed for the purpose of open space, natural resource or biodiversity conservation, agricultural preservation or watershed or historic preservation as an unconditional donation in perpetuity by the landowner or taxpayer to a public or private conservation agency eligible to hold the land and interests therein for conservation or preservation purposes. The fair market value of qualified donations made pursuant to this section shall be substantiated by a "qualified appraisal" prepared by a "qualified appraiser", as those terms are defined under applicable federal laws and regulations governing charitable contributions.

B. The amount of the credit that may be claimed by a taxpayer shall not exceed one hundred thousand dollars (\$100,000) for a conveyance made prior to January 1, 2008 and shall not exceed two hundred fifty thousand dollars (\$250,000) for a conveyance made on or after that date. In addition, in a taxable year the credit used may not exceed the amount of corporate income tax otherwise due. A portion of the credit that is unused in a taxable year may be carried over for a maximum of twenty consecutive taxable years following the taxable year in which the credit originated until fully expended. A taxpayer may claim only one tax credit per taxable year.

C. Qualified donations shall include the conveyance in perpetuity of a fee interest in real property or a less-than-fee interest in real property, such as a conservation restriction, preservation restriction, agricultural preservation restriction or watershed preservation restriction, pursuant to the Land Use Easement Act; provided that the less-than-fee interest qualifies as a charitable contribution deduction under Section 170(h) of the Internal Revenue Code. Dedications of land for open space for the purpose of fulfilling density requirements to obtain subdivision or building permits shall not be considered as qualified donations pursuant to the Land Conservation Incentives Act.

D. Qualified donations shall be eligible for the tax credit if the donations are made to the state of New Mexico, a political subdivision thereof or a charitable organization described in Section 501(c)(3) of the Internal Revenue Code and that meets the requirements of Section 170(h)(3) of that code.

E. To be eligible for treatment as qualified donations under this section, land or interests in lands must be certified by the secretary of energy, minerals and natural resources as fulfilling the purposes as set forth in Section

5-9-2 NMSA 1978. The use and protection of the lands, or interests therein, for open space, natural area protection, biodiversity habitat conservation, land preservation, agricultural preservation, historic preservation or similar use or purpose of the property shall be assured in perpetuity.

F. A taxpayer may apply for certification of eligibility for the tax credit provided by this section from the energy, minerals and natural resources department. If the energy, minerals and natural resources department determines that the application meets the requirements of this section and that the property conveyed will not adversely affect the property rights of contiguous landowners, it shall issue a certificate of eligibility to the taxpayer, which shall include a calculation of the maximum amount of tax credit for which the taxpayer would be eligible. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection.

G. To receive a credit pursuant to this section, a person shall apply to the taxation and revenue department on forms and in the manner prescribed by the department. The application shall include a certificate of eligibility issued by the energy, minerals and natural resources department pursuant to Subsection F of this section. If all of the requirements of this section have been complied with, the taxation and revenue department shall issue to the applicant a document granting the tax credit. The document shall be numbered for identification and declare its date of issuance and the amount of the tax credit allowed for the qualified donation made pursuant to this section.

H. The tax credit represented by a document issued pursuant to Subsection G of this section for a conveyance made on or after January 1, 2008, or an increment of that tax credit, may be sold, exchanged or otherwise transferred, and may be carried forward for a period of twenty taxable years following the taxable year in which the

credit originated until fully expended. A tax credit or increment of a tax credit may only be transferred once. The credit may be transferred to any taxpayer. A taxpayer to whom a credit has been transferred may use the credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but in no event may the transferred credit be used more than twenty years after it was originally issued.

I. A tax credit issued pursuant to this section shall be transferred through a qualified intermediary. The qualified intermediary shall, by means of a sworn notarized statement, notify the taxation and revenue department of the transfer and of the date of the transfer within ten days of the transfer. Credits shall only be transferred in increments of ten thousand dollars (\$10,000) or more. The qualified intermediary shall keep an account of the credits and have the authority to issue sub-numbers registered with the taxation and revenue department and traceable to the original credit.

J. If a charitable deduction is claimed on the taxpayer's federal income tax for any contribution for which the credit provided by this section is claimed, the taxpayer's itemized deductions for New Mexico income tax shall be reduced by the amount of the deduction for the contribution in order to determine the New Mexico taxable income of the taxpayer.

K. For the purposes of this section:

(1) "qualified intermediary" does not include a person who has been previously convicted of a felony, who has had a professional license revoked, who is engaged in the practice defined in Section 61-28B-3 NMSA 1978 and who is identified in Section 61-

29-2 NMSA 1978, and does not include any entity owned wholly or in part or employing any of the foregoing persons; and

(2) "taxpayer" means a citizen or resident of the United States, a domestic partnership, a limited liability company, a domestic corporation, an estate, including a foreign estate, or a trust."

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House Bill 990, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 336**

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR PRECINCT BOARD TRAINING MANUALS; CHANGING REGISTRATION PROCEDURES AND REQUIREMENTS; ELIMINATING PROVISIONS FOR ELECTRONIC TRANSMISSION OF ABSENTEE BALLOTS; CLARIFYING WHEN THE ABSENT VOTER PRECINCT POLLING PLACES MAY BE OPEN; CHANGING REQUIREMENTS FOR DISTRIBUTION OF VOTER INFORMATION; REQUIRING REPORTING OF FAILED REGISTRATIONS FOR DISTRIBUTION OF INVESTIGATION OR PROSECUTION; REQUIRING APPEALS OF COUNTY CLERK DECISIONS CONCERNING THE COUNTING OF THE VOTER'S PROVISIONAL BALLOT; REQUIRING THIRD-PARTY REGISTRATION ORGANIZATIONS TO REGISTER WITH THE STATE; CHANGING THE FILING DATE FOR MINOR PARTY CANDIDATES; CHANGING PROVISIONS FOR RECOUNT AND RECHECK COSTS; PROVIDING FOR HANDLING OF ABSENTEE BALLOTS; PROVIDING PRECINCT REPORTING PROCEDURES; PROVIDING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE ELECTION CODE; DECLARING AN EMERGENCY.

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

### **Chapter 336 Section 1 Laws 2007**

Section 1. A new section of the Election Code is enacted to read:

"REPORTING OF VOTE TOTALS BY PRECINCT--VOTING DATA MAINTAINED BY PRECINCT.--

A. The county clerk shall report to the secretary of state the vote totals in each precinct on election night.

B. The county clerk shall maintain voting data by precinct that includes the number of voters who voted early in-person, absentee by mail and on election day and the number of voters who voted using each type of voting system. The county clerk shall report this data to the secretary of state within sixty days following the election, and to no other person. The secretary of state shall then combine the data within a precinct to the extent necessary to protect the secrecy of each voter's ballot in accordance with rules issued by the secretary of state before the data as processed becomes a public record."

### **Chapter 336 Section 2 Laws 2007**

Section 2. Section 1-2-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 25, as amended) is amended to read:

"1-2-4. SECRETARY OF STATE--TRAINING AND INSTRUCTIONS TO PRECINCT BOARDS--TRAINING MANUAL.--

A. The secretary of state shall provide:

(1) instructions for the precinct board, which shall include a brief nontechnical explanation of its duties as required by the Election Code; and

(2) a single training manual containing standard guidelines for the operations and processes of statewide elections, including pre-election day activities, election-day activities and post-election-day activities. Separate manuals for voting systems may be provided for each county, or if the single training manual is in a looseleaf binder format, sections for the voting systems used in a given county may be inserted in the training manual for that county.

B. When any specific duty is imposed by the instructions issued under the Election Code, the duty shall be deemed to be a requirement of the law."

### **Chapter 336 Section 3 Laws 2007**

Section 3. Section 1-4-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 63, as amended) is amended to read:

"1-4-5. METHOD OF REGISTRATION--UNLAWFUL USE OF INFORMATION--PENALTY.--

A. A qualified elector may apply to a registration officer or agent for registration.

B. The registration officer or agent or qualified elector shall fill out each of the blanks on the certificate of registration by typing or printing in ink. The qualified elector shall be given a receipt that shall contain:

(1) a number traceable to the registration agent or officer;

(2) a statement informing the qualified elector that if the qualified elector does not receive confirmation of the qualified elector's registration within fifteen days of the receipt date, the qualified elector should contact the office of the county clerk in the county where the qualified elector resides; and

(3) a toll-free number for the office of the county clerk and an address for the web site of the secretary of state.

C. The qualified elector shall subscribe a certificate of registration as follows:

(1) by signing the certificate of registration using the qualified elector's given name, middle name or initial and last name; or

(2) if any qualified elector seeking to register is unable to read and write either the English or Spanish language or is unable to read or write because of some physical disability, the certificate of such person shall be filled out by a registration

officer or agent and the name of the qualified elector so registering shall be subscribed by the making of the qualified elector's mark.

D. When properly executed by the registration agent or officer, or qualified elector, the original of the certificate of registration shall be presented, either in person or by mail by the qualified elector or by the registration agent or officer, to the county clerk of the county in which the qualified elector resides.

E. Only when the certificate of registration is properly filled out, subscribed by the qualified elector and accepted for filing by the county clerk as evidenced by the county clerk's signature or stamp and the date of acceptance thereon shall it constitute an official public record of the registration of the qualified elector. It is unlawful for the qualified elector's date of birth or any portion of the qualified elector's social security number required on the certificate of registration to be copied, conveyed or used by anyone other than the person registering to vote, either before or after it is filed with the county clerk, except by elections administrators for purposes of the registration process.

F. A person who unlawfully copies, conveys or uses information from a certificate of registration is guilty of a fourth degree felony."

## **Chapter 336 Section 4 Laws 2007**

Section 4. Section 1-4-5.1 NMSA 1978 (being Laws 1993, Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7, as amended) is amended to read:

### "1-4-5.1. METHOD OF REGISTRATION--FORM.--

A. A qualified elector may apply for registration by mail, in the office of the secretary of state or county clerk or with a registration agent or officer.

B. A person may request certificate of registration forms from the secretary of state or any county clerk in person, by telephone or by mail for that person or for other persons.

C. Except as provided in Subsection D of this section, a qualified elector who wishes to register to vote shall fill out completely and sign the certificate of registration. The qualified elector may seek the assistance of any person in completing the certificate of registration.

D. A qualified elector who has filed for an order of protection pursuant to the provisions of the Family Violence Protection Act and who presents a copy of that order from a state or tribal court to the registration officer shall not be required to provide physical residence address information on the certificate of registration.

E. Completed certificates of registration may be mailed or presented in person by the registrant or any other person to the secretary of state or presented in person by the

registrant or any other person to the county clerk of the county in which the registrant resides.

F. If the registrant wishes to vote in the next election, the completed and signed certificate of registration shall be delivered or mailed and postmarked at least twenty-eight days before the election.

G. Upon receipt of a certificate of registration, the secretary of state shall send the certificate to the county clerk in the county where the qualified elector resides.

H. Only when the certificate of registration is properly filled out, signed by the qualified elector and accepted for filing by the county clerk as evidenced by the county clerk's signature or stamp and the date of acceptance thereon and when notice has been received by the registrant shall it constitute an official public record of the registration of the qualified elector.

I. The secretary of state shall prescribe the form of the certificate of registration, which form shall be a postpaid mail-in format and shall be printed in Spanish and English. The certificate of registration form shall be clear and understandable to the average person and shall include brief but sufficient instructions to enable the qualified elector to complete the form without assistance. The form shall also include:

(1) the question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen;

(2) the question "Will you be at least eighteen years of age on or before election day?" and boxes for the applicant to check to indicate whether the applicant will be eighteen years of age or older on election day;

(3) the statement "If you checked 'no' in response to either of these questions, do not complete this form.";

(4) a statement informing the applicant that:

(a) if the form is submitted by mail by the applicant and the applicant is registering for the first time in New Mexico, the applicant must submit with the form a copy of: 1) a current and valid photo identification; or 2) a current utility bill, bank statement, government check, paycheck, student identification card or other government document, including identification issued by an Indian nation, tribe or pueblo, that shows the name and current address of the applicant; and

(b) if the applicant does not submit the required identification, the applicant will be required to do so when voting in person or absentee; and

(5) a statement requiring the applicant to swear or affirm that the information supplied by the applicant is true."

## **Chapter 336 Section 5 Laws 2007**

Section 5. Section 1-4-5.3 NMSA 1978 (being Laws 2005, Chapter 270, Section 18) is amended to read:

### **"1-4-5.3. REGISTRATION--LACK OF PHYSICAL ADDRESS.--**

A. If a qualified elector resides in an area lacking a specific physical address, the qualified elector shall be allowed to substitute a mailing address along with a description, such as a map or the latitude and longitude, indicating where the qualified elector resides. The qualified elector shall be assigned to a precinct based on the geographic description of where the qualified elector resides.

B. The secretary of state shall issue rules regarding acceptable forms of non-physical addresses."

## **Chapter 336 Section 6 Laws 2007**

Section 6. Section 1-4-11 NMSA 1978 (being Laws 1969, Chapter 240, Section 67, as amended) is amended to read:

### **"1-4-11. DUTIES OF COUNTY CLERK--UPON RECEIPT OF CERTIFICATES.--**

A. Upon receipt of a complete certificate of registration, if in proper form, the county clerk shall determine if the qualified elector applying for registration is already registered in the registration records of the county. If the qualified elector is not already registered in the county and if the certificate of registration is received within the time allowed by law for filing certificates of registration in the county clerk's office, the county clerk shall sign or stamp, in the space provided therefor on each copy of the certificate, the qualified elector's name and the date the certificate was accepted for filing in the county registration records. Voter information shall be handed or mailed immediately to the qualified elector and to no other person.

B. If the qualified elector is already registered in the county as shown by the qualified elector's original certificate of registration currently on file in the county registration records, the county clerk shall not accept the new certificate of registration unless it is filed pursuant to Section 1-4-13, 1-4-15, 1-4-17 or 1-4-18 NMSA 1978. If the applicant's certificate of registration is rejected for any reason, the county clerk shall stamp or write the word "rejected" on the new certificate of registration and hand or mail it, if possible, to the applicant with an explanation why the new certificate of registration was rejected and what remedial action, if any, the applicant must take to bring the registration up to date or into compliance with the Election Code.

C. If the qualified elector does not register in person, indicates that the qualified elector has not previously voted in a general election in New Mexico and does not provide the registration officer with the required identification, the registration officer

shall indicate this on the qualified elector's certificate of registration and the county clerk shall note this on the appropriate precinct signature roster."

## **Chapter 336 Section 7 Laws 2007**

Section 7. Section 1-4-49 NMSA 1978 (being Laws 2005, Chapter 270, Section 17) is amended to read:

"1-4-49. THIRD-PARTY REGISTRATION AGENTS -- REGISTRATION REQUIRED -- PROCEDURES -- REPORTS -- PENALTY.--

A. Registration agents who either register or assist persons to register to vote on behalf of an organization that is not a state or federal agency shall register with the secretary of state, and the organization shall register and provide the secretary of state with:

(1) the names of the officers of the organization and the name and permanent address of the organization;

(2) the names, permanent addresses, temporary addresses, if any, and dates of birth of each person registering persons to vote in the state on behalf of the organization; and

(3) a sworn statement from each registration agent employed by or volunteering for the organization stating that the agent will obey all state laws and rules regarding the registration of voters on a form that gives notice of the criminal penalties for false registration.

B. Organizations employing registration agents or using volunteer registration agents shall deliver or mail a certificate of registration to the secretary of state or county clerk within forty-eight hours of its completion by the person registering to vote or deliver it the next business day if the appropriate office is closed for that forty-eight-hour period.

C. The secretary of state may issue rules to ensure the integrity of the registration process, including rules requiring that organizations account for all state and federal registration forms used by their registration agents.

D. A person who intentionally violates the provisions of this section is guilty of a petty misdemeanor and the person's third-party registration agent status shall be revoked. If the person who violates a provision of this section is an employee of an organization and has decision-making authority involving the organization's voter registration activities or is an officer of the organization, that organization shall be subject to civil penalties as described in Subsection E of this section.

E. If the secretary of state reasonably believes that a person committed a violation of the provisions of this section, the secretary of state shall refer the matter to

the attorney general or a district attorney for enforcement. The attorney general or district attorney may institute a civil action in district court for a violation of the provisions of this section or to prevent a violation of the provisions of this section. An action for relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including a civil penalty of two hundred fifty dollars (\$250) for each violation, not to exceed five thousand dollars (\$5,000)."

## **Chapter 336 Section 8 Laws 2007**

Section 8. Section 1-6-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 130, as amended) is amended to read:

"1-6-4. ABSENTEE BALLOT APPLICATION--FEDERAL QUALIFIED ELECTOR--OVERSEAS VOTER.--

A. Application by a federal qualified elector or an overseas voter for an absentee ballot shall be made on the official postcard form prescribed or authorized by the federal government to the county clerk of the county of the applicant's residence. The form shall allow the applicant to receive an absentee ballot for all elections within an election cycle.

B. Application by a voter for an absentee ballot shall be made only on a form prescribed by the secretary of state in accordance with federal law. The form shall identify the applicant and contain information to establish the applicant's qualification for issuance of an absentee ballot under the Absent Voter Act; provided that on the application form for a general election ballot there shall be no box, space or place provided for designation of the voter's political party affiliation.

C. Each application for an absentee ballot shall be subscribed by the applicant and shall require the applicant's printed name, year of birth and unique identifier to be supplied by the applicant, which shall constitute the required form of identification, except for new registrants who have registered by mail and at that time did not provide acceptable identification. The secretary of state shall issue rules to exempt voters from submitting identification only as required by federal law and shall review and, if necessary, update these rules no later than March 15 of even-numbered years.

D. An application for an absentee ballot by a federal qualified elector or an overseas voter shall be accepted at any time preceding the general election."

## **Chapter 336 Section 9 Laws 2007**

Section 9. Section 1-6-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 131, as amended) is amended to read:

"1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT.--

A. The county clerk shall mark each completed absentee ballot application with the date and time of receipt in the clerk's office and enter the required information in the absentee ballot register. The county clerk shall then determine if the applicant is a voter, an absent uniformed services voter or an overseas voter.

B. If the applicant does not have a valid certificate of registration on file in the county and is not a federal qualified elector or if the applicant states that the applicant is a federal qualified elector but the application indicates the applicant is not a federal qualified elector, an absentee ballot shall not be issued and the county clerk shall mark the application "rejected" and file the application in a separate file from those accepted.

C. The county clerk shall notify in writing each applicant of the fact of acceptance or rejection of the application and, if rejected, shall explain why the application was rejected.

D. If the applicant has on file with the county a valid certificate of registration that indicates that the applicant is a voter who is a new registrant and who registered by mail without submitting the required voter identification, the county clerk shall notify the voter that the voter must submit with the absentee ballot the required physical form of identification. The county clerk shall note on the absentee ballot register and signature roster that the applicant's absentee ballot must be returned with the required identification.

E. If the county clerk finds that the applicant is a voter other than a federal qualified elector or overseas voter, the county clerk shall mark the application "accepted" and, beginning twenty-eight days before the election, deliver an absentee ballot to the voter in the county clerk's office or mail to the applicant an absentee ballot and the required envelopes for use in returning the ballot. If the county clerk finds that the applicant is a federal qualified elector or overseas voter, the county clerk shall mark the application "accepted" and beginning forty-five days before the election, mail to the applicant an absentee ballot and the required envelopes for use in returning the ballot. Acceptance of an application of a federal qualified elector constitutes registration for the election in which the ballot is to be cast. Acceptance of an application from an overseas voter who is not an absent uniformed services voter constitutes a request for changing information on the certificate of registration of any such voter. An absent voter shall not be permitted to change party affiliation during those periods when change of party affiliation is prohibited by the Election Code. Upon delivery of an absentee ballot to a voter in the county clerk's office or mailing of an absentee ballot to an applicant who is a voter, an appropriate designation shall be made on the signature line of the signature roster next to the name of the voter who has been provided or mailed an absentee ballot.

F. If an application for an absentee ballot is delivered in person to the county clerk and is accepted, the county clerk shall provide the voter an absentee ballot and it shall be marked by the applicant in a voting booth of a type prescribed by the secretary of state, sealed in the proper envelopes and otherwise properly executed and returned

to the county clerk or the clerk's authorized representative before the voter leaves the office of the county clerk. The act of marking the absentee ballot in the office of the county clerk shall be a convenience to the voter in the delivery of the absentee ballot and does not make the office of the county clerk a polling place subject to the requirements of a polling place in the Election Code other than is provided in this subsection. It is unlawful to solicit votes, display or otherwise make accessible any posters, signs or other forms of campaign literature whatsoever in the clerk's office or alternate voting location. Absentee ballots may be marked in person at the county clerk's office during the regular hours and days of business beginning on the twenty-eighth day preceding the election and from 10:00 a.m. to 6:00 p.m. on the Saturday immediately prior to the date of the election. In marking the absentee ballot, the voter, pursuant to the provisions of Section 1-12-15 NMSA 1978, may be assisted by one person of the voter's choice.

G. Absentee ballots shall be sent to applicants not later than on the Friday immediately prior to the date of the election.

H. An absentee ballot shall not be delivered or mailed by the county clerk to any person other than the applicant for such ballot.

I. The secretary of state and each county clerk shall make reasonable efforts to publicize and inform voters of the times and locations for absentee voting; provided, however, that notice is provided at least ten days before early voting begins.

J. The secretary of state shall establish procedures for the submittal, when required by federal law, of required voter identification with mailed-in absentee ballots."

## **Chapter 336 Section 10 Laws 2007**

Section 10. Section 1-6-10 NMSA 1978 (being Laws 1969, Chapter 240, Section 136, as amended) is amended to read:

### **"1-6-10. RECEIPT OF ABSENTEE BALLOTS BY CLERK.--**

A. The county clerk shall mark on each completed official mailing envelope the date and time of receipt in the clerk's office, record this information in the absentee ballot register and safely keep the official mailing envelope unopened in a locked and number-sealed ballot box until it is delivered to the proper absent voter precinct board or until it is canceled and destroyed in accordance with law.

B. The county clerk shall accept completed official mailing envelopes until 7:00 p.m. on election day and the county clerk or absent voter precinct board shall accept completed official mailing envelopes from precincts within the county of the voters who turned in their absentee ballots at their precinct by the close of polls on election day. Any completed official mailing envelope received after that time shall not be delivered to a precinct board but shall be preserved by the county clerk until the time for election

contests has expired. In the absence of a restraining order after expiration of the time for election contests, the county clerk shall destroy all late official mailing envelopes without opening or permitting the contents to be examined, cast, counted or canvassed. Before their destruction, the county clerk shall count the numbers of late ballots from voters, federal voters, overseas citizen voters and federal qualified electors and report the number from each category to the secretary of state.

C. At 5:00 p.m. on the Monday immediately preceding the date of election, the county clerk shall record the numbers of the unused absentee ballots and shall publicly destroy in the county clerk's office all such unused ballots. The county clerk shall execute a certificate of destruction, which shall include the numbers on the absentee ballots destroyed. A copy of the certificate of destruction shall be sent to the secretary of state."

## **Chapter 336 Section 11 Laws 2007**

Section 11. Section 1-6-14 NMSA 1978 (being Laws 1971, Chapter 317, Section 11, as amended) is amended to read:

### **"1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER PRECINCT BOARDS.--**

A. Before opening an official mailing envelope, the presiding judge and the election judges shall determine that the required information has been completed on the reverse side of the official mailing envelope.

B. If the voter's signature is missing, the presiding judge shall write "Rejected" on the front of the official mailing envelope. The election clerks shall enter the voter's name in the signature rosters and shall write the notation "Rejected--Missing Signature" in the "Notations" column of the signature rosters. The presiding judge shall place the official mailing envelope unopened in an envelope provided for rejected ballots, seal the envelope and write the voter's name on the front of the envelope and deposit it in the locked ballot box.

C. A lawfully appointed challenger may examine the official mailing envelope and may challenge the ballot of any absent voter for the following reasons:

(1) the official mailing envelope has been opened prior to being received by the absent voter precinct board; or

(2) the person offering to vote is not a federal voter, federal qualified elector, overseas voter or voter as provided in the Election Code.

Upon the challenge of an absentee ballot, the election judges and the presiding election judge shall follow the same procedure as when ballots are challenged when a person attempts to vote in person. If a challenge is upheld, the official mailing envelope

shall not be opened but shall be placed in an envelope provided for challenged ballots. The same procedure shall be followed in canvassing and determining the validity of challenged absentee ballots as with other challenged ballots.

D. If the official mailing envelope has been properly subscribed and the voter has not been challenged:

(1) the election clerks shall enter the absent voter's name and residence address as shown on the official mailing envelope in the signature rosters and shall mark the notation "AB" opposite the voter's name in the "Notations" column of the signature rosters; and

(2) only between 8:00 a.m. and 5:00 p.m. on the five days preceding election day, including Saturday and Sunday, and beginning at 7:00 a.m. on election day, under the personal supervision of the presiding election judge, shall the election judges open the official mailing envelope and the official inner envelope and insert the enclosed ballot into an electronic voting machine to be registered and retained until votes are counted and canvassed following the closing of the polls on election night.

E. It is unlawful for a person to disclose the results of a count and tally or the registration on a voting machine of absentee ballots prior to the closing of the polls.

F. Absentee ballots shall be counted and tallied on an electronic voting machine as provided in the Election Code.

G. Absent voter precinct polls shall close in accordance with Section 1-6-23 NMSA 1978, and the results of the election shall be certified as prescribed by the secretary of state.

H. If an absentee ballot does not contain the identification required pursuant to Subsection D of Section 1-6-5 NMSA 1978, it shall be handled as a provisional paper ballot in accordance with the Election Code."

## **Chapter 336 Section 12 Laws 2007**

Section 12. Section 1-6-23 NMSA 1978 (being Laws 1975, Chapter 255, Section 95, as amended) is amended to read:

"1-6-23. ABSENT VOTER PRECINCT POLLING PLACE--HOURS ON ELECTION DAY AND SUBSEQUENT DAYS.--The county clerk or statutorily appointed supervisor of the election shall determine the hours between 8:00 a.m. and 5:00 p.m. during which the absent voter precinct polling place shall be open for delivery and registering of absentee ballots on the five days preceding election day and the hours during which the absent voter precinct polling place shall be open for the delivery, registering and counting of ballots on election day and subsequent days until all ballots

are counted; provided that the absent voter precinct polling place opens at 7:00 a.m. on election day."

## **Chapter 336 Section 13 Laws 2007**

Section 13. Section 1-8-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 152, as amended) is amended to read:

"1-8-2. NOMINATION BY MINOR POLITICAL PARTY-- CONVENTION-  
DESIGNATED NOMINEES.--

A. If the rules of a minor political party require nomination by political convention:

(1) the chair and secretary of the state political convention shall certify to the secretary of state the names of their party's nominees for United States senator, United States representative, all elective state offices, legislative offices elected from multicounty districts, the public regulation commission, all elective judicial officers in the judicial department and all offices representing a district composed of more than one county; and

(2) the chair and secretary of the county political convention shall certify to the county clerk the names of their party's nominees for elected county offices and for legislative offices elected from a district located wholly within one county or that is composed of only one county.

B. The names certified to the secretary of state shall be filed on the twenty-first day following the primary election in the year of the general election and shall be accompanied by a petition containing a list of signatures and addresses of voters totaling not less than one percent of the total number of votes cast at the last preceding general election for the office of governor or president of the United States, as the case may be:

(1) in the state for statewide offices; and

(2) in the district for offices other than statewide offices.

The petition shall contain a statement that the voters signing the petition are residents of the state, district, county or area to be represented by the office for which the person being nominated is a candidate.

C. The names certified to the county clerk shall be filed on the twenty-first day following the primary election in the year of the general election and shall be accompanied by a petition containing a list of signatures and addresses of voters totaling not less than one percent of the total number of votes cast at the last preceding

general election for the office of governor or president of the United States, as the case may be:

(1) in the county for countywide offices; and

(2) in the district for offices other than countywide offices.

The petition shall contain a statement that the voters signing the petition are residents of the state, district, county or area to be represented by the office for which the person being nominated is a candidate.

D. Persons certified as nominees shall be members of that party before the day the governor issues the primary election proclamation.

E. No voter shall sign a petition prescribed by this section for more persons than the number of minor party candidates necessary to fill the office at the next ensuing general election."

## **Chapter 336 Section 14 Laws 2007**

Section 14. Section 1-11-12.1 NMSA 1978 (being Laws 2005, Chapter 270, Section 9) is amended to read:

"1-11-12.1. VOTER INFORMATION--DISTRIBUTION.--

A. Between sixty and seventy-five days before each general election, the secretary of state shall send to each active registered voter in each county voter information indicating the voter's name, address and voting precinct and the name of the current county clerk in that county; provided, however, that a registrant shall still be sent voter information upon filing of the registrant's certificate of registration with the county clerk as provided in Section 1-4-12 NMSA 1978.

B. The secretary of state shall promulgate rules to ensure that all registered voters receive voter information."

## **Chapter 336 Section 15 Laws 2007**

Section 15. Section 1-12-8.1 NMSA 1978 (being Laws 2005, Chapter 270, Section 62) is amended to read:

"1-12-8.1. CONDUCT OF ELECTION--USE OF VOTER'S RECEIPT OF CERTIFICATE OF REGISTRATION--PROCEDURES.--If a voter whose name is not in the signature roster presents the voter's receipt of the voter's certificate of registration, the voter shall be allowed to vote on a provisional ballot in the proper precinct in accordance with the provisions of Section 1-12-7.1 NMSA 1978. The election judge shall inform the voter that the voter will be notified by the county clerk to provide a copy

of the receipt of the certificate of registration to the county clerk if the original certificate is not located. A note shall be entered on the signature roster indicating that the voter's certificate of registration should be checked by the county clerk. For the purposes of investigation or prosecution, the county clerk shall provide the district attorney and the secretary of state with the person's name and address and the corresponding receipt number of the person's certificate of registration for each person whose certificate of registration is not located."

## **Chapter 336 Section 16 Laws 2007**

Section 16. Section 1-12-8.2 NMSA 1978 (being Laws 2005, Chapter 270, Section 60) is amended to read:

### **"1-12-8.2. CONDUCT OF ELECTION--ELECTION DAY DELIVERY OF ABSENTEE BALLOT BY VOTER--PROCEDURES.--**

A. A voter who requested and received an absentee ballot shall be allowed to deliver the official mailing envelope containing the voter's absentee ballot on election day to the precinct in which the voter is registered if the voter presents the official mailing envelope to the election judge before the polls close on election day.

B. The election judge shall note on the signature roster that the voter delivered the absentee ballot in person on election day. The precinct board shall deliver the unopened official mailing envelopes to the absent voter precinct board or county clerk before midnight on election day."

## **Chapter 336 Section 17 Laws 2007**

Section 17. Section 1-12-25.2 NMSA 1978 (being Laws 2003, Chapter 356, Section 3, as amended) is amended to read:

### **"1-12-25.2. CONDUCT OF ELECTION--PROVISIONAL VOTING-- INFORMATION TO VOTER--STATUS OF VOTER'S BALLOT.--**

A. If a voter is required to vote on a provisional paper ballot, the election judge shall give the voter written instructions on how the voter may determine whether the vote was counted and, if the vote was not counted, the reason it was not counted.

B. The county clerk shall establish a free access system, such as a toll-free telephone number or internet web site, that a voter who casts a provisional paper ballot may access to ascertain whether the voter's ballot was counted and, if the vote was not counted, the reason it was not counted and how to appeal the decision pursuant to rules issued by the secretary of state. Access to information about an individual voter's provisional ballot is restricted to the voter who cast the ballot.

C. Beginning with the closing of the polls on election day through the tenth day following the election, the county clerk shall notify by mail each person whose provisional ballot was not counted of the reason the ballot was not counted. The voter shall have until the Friday prior to the meeting of the state canvassing board to appeal to the county clerk a decision to reject the voter's ballot."

## **Chapter 336 Section 18 Laws 2007**

Section 18. Section 1-14-15 NMSA 1978 (being Laws 1978, Chapter 48, Section 1, as amended) is amended to read:

### "1-14-15. RECOUNTS--RECHECKS--COST OF PROCEEDINGS.--

A. An applicant for a recount shall deposit with the proper canvassing board or, in the case of an office for which the state canvassing board issues a certificate of nomination or election, with the secretary of state sufficient cash, or a sufficient surety bond, to cover the cost of a recount for each precinct for which a recount is demanded. An applicant for a recheck shall deposit with the proper canvassing board or, in the case of an office for which the state canvassing board issues a certificate of nomination or election, with the secretary of state sufficient cash, or a sufficient surety bond, to cover the cost of the recheck for each voting machine to be rechecked. The state canvassing board shall determine the estimated actual cost of a recount per precinct and a recheck per voting machine no later than March 15 of even-numbered years. The secretary of state shall post the recount and recheck cost determinations on the secretary of state's web site when the state canvassing board issues its cost determinations.

B. The deposit or surety bond shall be security for the payment of the costs and expenses of the recount or recheck in case the results of the recount or recheck are not sufficient to change the results of the election.

C. If it appears that error or fraud sufficient to change the winner of the election has been committed, the costs and expenses of the recount or recheck shall be paid by the state upon warrant issued by the secretary of finance and administration supported by a voucher of the secretary of state, or shall be paid by the county upon warrant of the county clerk from the general fund of the county, as the case may be.

D. If no error or fraud appears to be sufficient to change the winner, the costs and expenses for the recount or recheck shall be paid by the applicant. Costs shall consist of any docket fees, mileage of the sheriff in serving summons and fees and mileage of precinct board members, at the same rates allowed witnesses in civil actions. If error or fraud has been committed by a precinct board, the board members shall not be entitled to such mileage or fees."

## **Chapter 336 Section 19 Laws 2007**

Section 19. Section 1-14-22 NMSA 1978 (being Laws 2005, Chapter 270, Section 76) is amended to read:

"1-14-22. CONTESTS AND RECOUNTS--PROVISIONAL, ABSENTEE AND OTHER PAPER BALLOTS.--The secretary of state shall issue rules governing and allowing procedures for reviewing the qualification of provisional ballot envelopes, absentee and other paper ballots in the case of a contest or recount of election results. All rejected provisional paper ballot envelopes shall be included in any contest or recount of election results, and a review of the qualification of provisional ballot envelopes shall occur in a recount."

### **Chapter 336 Section 20 Laws 2007**

Section 20. REPEAL.--Section 1-6-10.2 NMSA 1978 (being Laws 2003, Chapter 378, Section 1) is repealed.

### **Chapter 336 Section 21 Laws 2007**

Section 21. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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House Judiciary Committee

Substitute for House Bill 1155

with emergency clause

Approved April 2, 2007

## **LAWS 2007, CHAPTER 337**

### **AN ACT**

RELATING TO ELECTIONS; DEFINING TERMS; PROHIBITING RELEASE OF CERTAIN REGISTRATION INFORMATION; ESTABLISHING RECOUNT PROCEDURES; ESTABLISHING COUNTING STANDARDS; ALLOWING MESSENGERS TO PICK UP ABSENTEE BALLOTS FROM POLLING PLACES; CHANGING PROCEDURES BY WHICH VOTING RIGHTS MAY BE RESTORED TO FELONS; CHANGING THE PENALTY FOR FAILURE TO DELIVER AN ABSENTEE BALLOT APPLICATION; ELIMINATING PROVISIONS ALLOWING CANDIDATES WHO FAIL TO RECEIVE PREPRIMARY CONVENTION DESIGNATION TO BECOME A CANDIDATE; ALLOWING THE SECRETARY OF STATE TO ASSIST IN PREPARING BALLOTS; CHANGING PROVISIONS RELATED TO ASSISTANCE OF

VOTERS AT THE POLLS; PROVIDING PROCEDURES FOR PRESERVING AND CLEARING VOTING SYSTEM MEMORY CARDS; GIVING THE SECRETARY OF STATE AUTHORITY TO DETERMINE THE FORM OF THE BALLOT FOR CONSTITUTIONAL AMENDMENTS; REMOVING CERTAIN REFERENCES TO ABSENTEE, EMERGENCY AND PROVISIONAL BALLOTS; CHANGING THE DEADLINE FOR SCHOOL BOARD ELECTION PROCLAMATIONS; PROVIDING FOR PENALTIES.

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

### **Chapter 337 Section 1 Laws 2007**

Section 1. A new section of the Election Code is enacted to read:

"PROHIBITION ON RELEASE OF REGISTRATION INFORMATION.--The secretary of state, county clerk or any other registration agent shall not release to the public a voter's social security number or date of birth."

### **Chapter 337 Section 2 Laws 2007**

Section 2. A new section of the Election Code is enacted to read:

"RECOUNT PROCEDURES.--

A. To ensure the accuracy of electronic vote tabulating systems, the secretary of state shall issue rules to implement the recount procedures provided for in Subsections B and C of this section.

B. The votes from a random selection of ballots shall be tallied by hand, and the votes from the same ballots shall be tabulated by an electronic vote tabulating system. For statewide and federal office, the number of ballots to be tallied and tabulated shall be equal to at least two percent of the ballots cast in each county. For all other offices, the number of ballots to be tallied and tabulated shall be equal to the greater of one hundred, or five percent, of the ballots cast for the office, distributed by county where applicable.

C. For a statewide or federal office, if the results of the hand-tally and the electronic vote tabulating system tabulation differ by one-fourth of one percent or less, the remaining ballots shall be recounted using electronic vote tabulating systems. Otherwise, the remaining ballots shall be recounted by hand.

D. For offices other than statewide or federal offices, if the results of the hand-tally and the electronic vote tabulating system tabulation differ by the greater of one percent or less, or two votes, the remaining ballots shall be recounted using electronic vote tabulating systems. Otherwise, the remaining ballots shall be recounted by hand.

E. Nothing in this section prohibits a candidate from requesting a hand recount in accordance with the provisions of Section 1-14-15 NMSA 1978."

### **Chapter 337 Section 3 Laws 2007**

Section 3. Section 1-1-6 NMSA 1978 (being Laws 1977, Chapter 222, Section 1, as amended) is amended to read:

"1-1-6. RECHECK AND RECOUNT.--As used in the Election Code:

A. "recheck" pertains to electronic vote tabulating systems and means a verification procedure whereby a printout of the electronic record of votes cast in an election is made from each electronic memory device in the electronic vote tabulating system and the results are compared with the results shown on the official returns; and

B. "recount" pertains to emergency paper ballots, absentee ballots, provisional paper ballots, optical scan paper ballots and any other paper ballot and means a verification procedure whereby the voters' selections for an office are retabulated by feeding the ballots into an electronic vote tabulating system, and the voters' selections on ballots that cannot be read by the system are counted by hand and the results compared with the results shown on the official returns."

### **Chapter 337 Section 4 Laws 2007**

Section 4. Section 1-1-23 NMSA 1978 (being Laws 2005, Chapter 270, Section 5) is amended to read:

"1-1-23. UNIQUE IDENTIFIER.--As used in the Election Code, "unique identifier" means a randomly generated series of numbers, letters or symbols assigned to a voter, which shall not be the voter's social security number or date of birth."

### **Chapter 337 Section 5 Laws 2007**

Section 5. Section 1-1-25 NMSA 1978 (being Laws 2005, Chapter 270, Section 7) is amended to read:

"1-1-25. VOTER INFORMATION.--As used in the Election Code, "voter information" means a document containing the person's name, address and precinct number that is issued by the county clerk or the secretary of state."

### **Chapter 337 Section 6 Laws 2007**

Section 6. Section 1-2-20 NMSA 1978 (being Laws 1969, Chapter 240, Section 39, as amended) is amended to read:

"1-2-20. MESSENGERS--COMPENSATION.--

A. The county clerk may appoint messengers to deliver ballot boxes, poll books, keys, election supplies and other materials pertaining to the election. Messengers may also be authorized to collect absentee ballots from polling places and deliver those absentee ballots to locations designated by the county clerk.

B. Messengers shall be paid mileage as provided in the Per Diem and Mileage Act each way over the usually traveled route. The mileage shall be paid within thirty days following the date of election if funds are available for payment."

**Chapter 337 Section 7 Laws 2007**

Section 7. Section 1-4-27.1 NMSA 1978 (being Laws 2001, Chapter 46, Section 1, as amended) is amended to read:

"1-4-27.1. CANCELLATION OF REGISTRATION FOLLOWING CONVICTION--ELIGIBILITY FOR VOTING UPON SATISFACTION OF CONDITIONS.--

A. When a voter has been convicted of a felony, the voter's registration shall be cancelled.

B. When a voter convicted of a felony is placed on supervised probation and has completed the conditions of supervision as ordered by the court, the person is eligible for registration.

C. When a voter convicted of a felony is unconditionally discharged from a correctional facility under the jurisdiction of the corrections department, or is conditionally discharged from a facility under the jurisdiction of the corrections department and has completed all conditions of probation or parole, the person is eligible for registration.

D. When a voter convicted of a federal offense constituting a felony is unconditionally discharged from a correctional facility under the jurisdiction of a federal corrections agency and has completed all conditions of probation or parole, the person is eligible for registration.

E. The corrections department and the administrative office of the courts shall deliver to the secretary of state information and data as needed to carry out the provisions of this section.

F. The secretary of state shall promulgate rules to implement and enforce the provisions of this section."

**Chapter 337 Section 8 Laws 2007**

Section 8. Section 1-5-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 110, as amended) is amended to read:

"1-5-8. PRECINCT VOTER LISTS--SIGNATURE ROSTERS--NUMBER--DISTRIBUTION.--

A. One copy of the signature roster shall be prepared for each precinct. On the cover of the signature roster shall be printed the words, "Copy for the County Clerk". Upon its preparation and certification as to its accuracy and completeness, the county clerk shall deliver the copy of the signature roster to the precinct board.

B. The county clerk shall prepare three copies of the precinct voter list for each precinct. Of the three copies prepared, one copy shall not include the voters' unique identifiers. The other two shall contain the voters' unique identifiers. The county clerk shall deliver two of the copies to each precinct board. One copy of the precinct voter list shall be retained by the county clerk for verification purposes on election day and one copy for the secretary of state shall be marked to verify those voters on the list who voted.

C. Two copies of the county voter list, arranged in alphabetical order, shall be prepared for election day for verification purposes only."

### **Chapter 337 Section 9 Laws 2007**

Section 9. Section 1-6-4.3 NMSA 1978 (being Laws 2005, Chapter 270, Section 41) is amended to read:

"1-6-4.3. THIRD PARTY AGENTS COLLECTING ABSENTEE BALLOT APPLICATIONS.--

A. A person or organization that is not part of a government agency and that collects absentee ballot applications shall submit the applications to the appropriate office for filing within forty-eight hours of their completion or the next business day if the appropriate office is closed for that forty-eight-hour period.

B. A person who collects absentee ballot applications and fails to submit a voter's completed absentee ballot application is guilty of a petty misdemeanor.

C. A person who intentionally alters another voter's completed absentee ballot application is guilty of a fourth degree felony."

### **Chapter 337 Section 10 Laws 2007**

Section 10. Section 1-8-33 NMSA 1978 (being Laws 1973, Chapter 228, Section 7, as amended) is amended to read:

"1-8-33. PRIMARY ELECTION LAW--NOMINATING PETITION-- NUMBER OF SIGNATURES REQUIRED.--

A. As used in this section, "total vote" means the sum of all votes cast for all of the party's candidates for governor at the last preceding primary election at which the party's candidate for governor was nominated.

B. Candidates who seek preprimary convention designation shall file nominating petitions at the time of filing declarations of candidacy. Nominating petitions for those candidates shall be signed by a number of voters equal to at least two percent of the total vote of the candidate's party in the state or congressional district, or the following number of voters, whichever is greater: for statewide offices, two hundred thirty voters; and for congressional candidates, seventy-seven voters.

C. Nominating petitions for candidates for any other office to be voted on at the primary election for which nominating petitions are required shall be signed by a number of voters equal to at least three percent of the total vote of the candidate's party in the district or division, or the following number of voters, whichever is greater: for metropolitan court and magistrate courts, ten voters; for the public regulation commission, fifty voters; for the public education commission, twenty-five voters; for state representative, ten voters; for state senator, seventeen voters; and for district attorney and district judge, fifteen voters."

## **Chapter 337 Section 11 Laws 2007**

Section 11. Section 1-9-4.2 NMSA 1978 (being Laws 2003, Chapter 356, Section 9, as amended) is amended to read:

"1-9-4.2. DEFINITION OF A VOTE--COUNTING OF HAND-TALLIED BALLOTS.-

A. A vote on a paper ballot used on an electronic vote tabulating system, optical scan vote tabulating system or high-speed central count vote tabulator consists of a voter's selection of a candidate or answer to a ballot question indicated in the voting response area of the paper ballot marked in accordance with the instructions for that ballot type.

B. For paper ballots that are hand-tallied, a vote shall be counted if:

(1) the ballot is marked in accordance with the instructions for that ballot type;

(2) the preferred candidate's name or answer to a ballot question is circled;

(3) there is a cross or check within the voting response area for the preferred candidate or answer to the ballot question; or

(4) the presiding judge and election judges for the precinct unanimously agree that the voter's intent is clearly discernable."

### **Chapter 337 Section 12 Laws 2007**

Section 12. Section 1-10-2 NMSA 1978 (being Laws 1977, Chapter 222, Section 25) is amended to read:

"1-10-2. BALLOTS--DUTY TO PROVIDE.--The county clerk shall prepare and supply the ballots used in elections conducted under the Election Code. The secretary of state may assist in preparing and supplying ballots. Ballots other than those prepared by the county clerk or secretary of state shall not be used."

### **Chapter 337 Section 13 Laws 2007**

Section 13. Section 1-12-13 NMSA 1978 (being Laws 1969, Chapter 240, Section 266, as amended) is amended to read:

"1-12-13. CONDUCT OF ELECTION--AID OR ASSISTANCE TO VOTER IN MARKING BALLOT.--

A. When a voter who is eligible for assistance pursuant to Section 1-12-12 NMSA 1978 requires assistance in marking a ballot or using the voting system, the voter shall announce this fact before receiving the ballot or using the voting system.

B. The voter's request for assistance shall be noted by the voter's name in the signature roster and initialed by the presiding judge.

C. After noting the request for assistance in the signature roster, the voter shall be permitted assistance in marking the ballot or using the voting system as provided in Section 1-12-15 NMSA 1978.

D. Any person who swears falsely in order to secure assistance is guilty of perjury."

### **Chapter 337 Section 14 Laws 2007**

Section 14. Section 1-12-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 268) is amended to read:

"1-12-16. CONDUCT OF ELECTION--TYPE OF ASSISTANCE.--Persons providing assistance to a voter may assist the voter in reading and marking the ballot or using the voting system."

## **Chapter 337 Section 15 Laws 2007**

Section 15. Section 1-13-21 NMSA 1978 (being Laws 1971, Chapter 317, Section 21, as amended) is amended to read:

"1-13-21. CLEARING VOTING SYSTEMS.--

A. Thirty days after adjournment of the state canvassing board, each county clerk in the presence of the district judge or the district judge's designated representative shall clear the votes recorded on the memory cards of all voting systems of the precincts for which the county clerk has not received notice by registered mail of contest or judicial inquiry.

B. The county clerk shall keep locked those memory cards from voting systems used in precincts where a recount, judicial inquiry or inspection is sought, subject to order of the district court or other authority having jurisdiction of the contest or inspection.

C. At least three days prior to the clearing of the voting system memory cards, the county clerk shall notify the county chair of each political party participating in the election of the time, place and date thereof. The chair of the political party may be present or may have the chair's accredited representative present at the clearing."

## **Chapter 337 Section 16 Laws 2007**

Section 16. Section 1-16-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 378, as amended) is amended to read:

"1-16-5. STATE CONSTITUTIONAL AMENDMENTS--FORM OF BALLOTS.--

All ballots proposing constitutional amendments shall be in the form prescribed by the secretary of state."

## **Chapter 337 Section 17 Laws 2007**

Section 17. Section 1-16-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 379, as amended) is amended to read:

"1-16-6. STATE CONSTITUTIONAL AMENDMENTS--MARKING BALLOTS.--

A voter desiring to mark the ballot for or against a proposed constitutional amendment shall do so in the manner specified in the instructions printed on the ballot."

## **Chapter 337 Section 18 Laws 2007**

Section 18. Section 1-16-9 NMSA 1978 (being Laws 1969, Chapter 240, Section 381, as amended) is amended to read:

"1-16-9. STATE CONSTITUTIONAL AMENDMENTS--SINGLE BALLOT.--

Proposed constitutional amendments or other questions submitted to the voters at any election shall be printed on one ballot only."

### **Chapter 337 Section 19 Laws 2007**

Section 19. Section 1-22-4 NMSA 1978 (being Laws 1985, Chapter 168, Section 6, as amended) is amended to read:

"1-22-4. REGULAR ELECTION--PROCLAMATION--PUBLICATION.--

A. The board shall by resolution issue a public proclamation in Spanish and English calling a regular school district election within the school district on the date prescribed by the School Election Law. The proclamation shall be filed by the superintendent with the county clerk of record on the last Tuesday in November of the even-numbered year immediately preceding the date of the election.

B. The proclamation shall specify:

- (1) the date when the election will be held;
- (2) the positions on the board to be filled;
- (3) the date on which declarations of candidacy are to be filed;
- (4) the date on which declarations of intent to be a write-in candidate are to be filed;
- (5) the questions to be submitted to the voters;
- (6) the precincts in each county in which the election is to be held and the location of each polling place;
- (7) the hours each polling place will be open; and
- (8) the date and time of the closing of the registration books by the county clerk of record as required by law.

C. After filing the proclamation with the county clerk of record and not less than fifty days before the date of the election, the county clerk of record shall publish the proclamation at least once in a newspaper of general circulation within the school

district. The publication of the proclamation shall conform to the requirements of the federal Voting Rights Act of 1965, as amended."

## **Chapter 337 Section 20 Laws 2007**

Section 20. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Judiciary Committee Substitute

for House Voters and Elections Committee

Substitute for House Bill 1156, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 338**

AN ACT

RELATING TO IRRIGATION DISTRICTS; ALLOWING IRRIGATION DISTRICTS ORGANIZED PURSUANT TO CHAPTER 73, ARTICLE 10 NMSA 1978 THAT HAVE THREE-MEMBER BOARDS TO INCREASE THE NUMBER OF BOARD MEMBERS TO FIVE.

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

## **Chapter 338 Section 1 Laws 2007**

Section 1. Section 73-10-5 NMSA 1978 (being Laws 1919, Chapter 20, Section 5) is amended to read:

"73-10-5. BOUNDARIES SET BY PETITION--DIVISIONS--ELECTION CALL--OFFICERS.--

A. When the petition is presented and it appears that the notice of the presentation of the petition has been given as required by law and that the petition has been signed by the requisite number of petitioners as required by Chapter 73, Articles 10 and 11 NMSA 1978, the commissioners shall proceed to define the boundaries of the proposed district from the petition and from the application for the exclusion of lands from it and the inclusion of lands in it as may be made in accordance with the intent of those articles. The commissioners may adjourn the examination from time to time, not exceeding three weeks, and shall by final order duly entered define and establish the

boundaries of the proposed district. The board shall not modify the proposed boundaries described in the petition to change the objects of the petition or to exempt from the provisions of those articles any land within the boundaries proposed by the petition susceptible to irrigation by the same system of water works applicable to other lands in the proposed district; nor shall any land that will not, in the judgment of the board, be benefited by such proposed water system be included in the district if the owner or entryman of the land shall make application at the hearing to withdraw it. The contiguous lands not included in the proposed district as described in the petition may upon application of the owner be included in the district upon the hearing, in the event that it shall be determined that the water supply for the additional lands is available and that in other respects it is feasible for the lands of the petitioners to be included within the district.

B. When the boundaries of any proposed district have been examined and defined, the county commissioners shall make an order allowing the prayer of the petition, defining and establishing the boundaries and designating the name of the proposed district. The commissioners shall, by further order duly entered upon their record, call an election of the qualified electors of the district to be held for the purpose of determining whether the district shall be organized under the provisions of Chapter 73, Articles 10 and 11 NMSA 1978 and by the order shall submit the names of one or more persons from each of the divisions of the district provided by those articles to be voted for as directors. For the purpose of the election, the commissioners shall divide the district into divisions, in number as hereinafter designated, as nearly equal in size as may be practical and shall provide that one qualified elector of each of the divisions shall be elected as a member of the board of directors of the district by the qualified electors of the whole district. The board of county commissioners shall establish and define a convenient number of election precincts and designate polling places, subject to amendment by the board of directors for subsequent elections. Three judges shall be appointed for each of the precincts, one of whom shall act as clerk of the election. In the hearing of any such petition, the board of county commissioners shall disregard any informality in it and in case the commissioners deny it or dismiss it for any reason on account of the provisions of Chapter 73, Articles 10 and 11 NMSA 1978 not having been complied with, which are the only reasons upon which they shall have a right to refuse or dismiss the petition, they shall state their reasons in writing in detail, which shall be entered upon their records. In case these reasons are not well founded, a writ of mandamus shall, upon proper application for it, issue out of the district court of the county, compelling them to act in compliance with Chapter 73, Articles 10 and 11 NMSA 1978, which writ shall be heard within twenty days from the date of its issuance.

C. The officers of the district shall consist of the directors, a secretary and a treasurer. The directors and divisions of irrigation districts shall be in number, for districts having an irrigable area of twenty-five thousand acres or less, three; for districts having an irrigable area of more than twenty-five thousand acres and not more than fifty thousand acres, five; for districts having an irrigable area of more than fifty thousand acres and less than seventy-five thousand acres, seven; and for districts having an irrigable area of seventy-five thousand acres or more, nine directors and divisions;

provided that the directors of a district having an irrigable area of twenty-five thousand acres or less may by majority vote increase the number of directors and divisions of the district to five."

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House Bill 1208

Approved April 2, 2007

## **LAWS 2007, CHAPTER 339**

AN ACT

RELATING TO TAXATION; CHANGING CERTAIN DEFINITIONS IN THE GROSS RECEIPTS AND COMPENSATING TAX ACT.

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

### **Chapter 339 Section 1 Laws 2007**

Section 1. Section 7-9-3 NMSA 1978 (being Laws 1978, Chapter 46, Section 1, as amended) is amended to read:

"7-9-3. DEFINITIONS.--As used in the Gross Receipts and Compensating Tax Act:

A. "buying" or "selling" means a transfer of property for consideration or the performance of service for consideration;

B. "department" means the taxation and revenue department, the secretary of taxation and revenue or an employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "financial corporation" means a savings and loan association or an incorporated savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation;

D. "initial use" or "initially used" means the first employment for the intended purpose and does not include the following activities:

(1) observation of tests conducted by the performer of services;

(2) participation in progress reviews, briefings, consultations and conferences conducted by the performer of services;

(3) review of preliminary drafts, drawings and other materials prepared by the performer of the services;

(4) inspection of preliminary prototypes developed by the performer of services; or

(5) similar activities;

E. "leasing" means an arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property, except that the granting of a license to use property is licensing and is not a lease;

F. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts and required to be collected by the department at the same time and in the same manner as the gross receipts tax; "local option gross receipts tax" includes the taxes imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax Act, County Local Option Gross Receipts Taxes Act, Local Hospital Gross Receipts Tax Act, County Correctional Facility Gross Receipts Tax Act and such other acts as may be enacted authorizing counties or municipalities to impose taxes on gross receipts, which taxes are to be collected by the department;

G. "manufactured home" means a movable or portable housing structure for human occupancy that exceeds either a width of eight feet or a length of forty feet constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation;

H. "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include construction;

I. "person" means:

(1) an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other entity, including any gas, water or electric utility owned or operated by a county, municipality or other political subdivision of the state; or

(2) a national, federal, state, Indian or other governmental unit or subdivision, or an agency, department or instrumentality of any of the foregoing;

J. "property" means real property, tangible personal property, licenses other than the licenses of copyrights, trademarks or patents and franchises. Tangible personal property includes electricity and manufactured homes;

K. "research and development services" means an activity engaged in for other persons for consideration, for one or more of the following purposes:

(1) advancing basic knowledge in a recognized field of natural science;

(2) advancing technology in a field of technical endeavor;

(3) developing a new or improved product, process or system with new or improved function, performance, reliability or quality, whether or not the new or improved product, process or system is offered for sale, lease or other transfer;

(4) developing new uses or applications for an existing product, process or system, whether or not the new use or application is offered as the rationale for purchase, lease or other transfer of the product, process or system;

(5) developing analytical or survey activities incorporating technology review, application, trade-off study, modeling, simulation, conceptual design or similar activities, whether or not offered for sale, lease or other transfer; or

(6) designing and developing prototypes or integrating systems incorporating the advances, developments or improvements included in Paragraphs (1) through (5) of this subsection;

L. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

M. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. That tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. Sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property; and

N. "use" or "using" includes use, consumption or storage other than storage for subsequent sale in the ordinary course of business or for use solely outside this state."

## **Chapter 339 Section 2 Laws 2007**

Section 2. Section 7-9-3.5 NMSA 1978 (being Laws 2003, Chapter 272, Section 3, as amended) is amended to read:

### "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

#### A. As used in the Gross Receipts and Compensating Tax Act:

(1) "gross receipts" means the total amount of money or the value of other consideration received from selling property in New Mexico, from leasing or licensing property employed in New Mexico, from granting a right to use a franchise employed in New Mexico, from selling services performed outside New Mexico, the product of which is initially used in New Mexico, or from performing services in New Mexico. In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, "gross receipts" means the reasonable value of the property or service exchanged;

(2) "gross receipts" includes:

(a) any receipts from sales of tangible personal property handled on consignment;

(b) the total commissions or fees derived from the business of buying, selling or promoting the purchase, sale or lease, as an agent or broker on a commission or fee basis, of any property, service, stock, bond or security;

(c) amounts paid by members of any cooperative association or similar organization for sales or leases of personal property or performance of services by such organization;

(d) amounts received from transmitting messages or conversations by persons providing telephone or telegraph services;

(e) amounts received by a New Mexico florist from the sale of flowers, plants or other products that are customarily sold by florists where the sale is made pursuant to orders placed with the New Mexico florist that are filled and delivered outside New Mexico by an out-of-state florist; and

(f) the receipts of a home service provider from providing mobile telecommunications services to customers whose place of primary use is in New Mexico if: 1) the mobile telecommunications services originate and terminate in the same state, regardless of where the services originate, terminate or pass through; and 2) the charges for mobile telecommunications services are billed by or for a customer's home service provider and are deemed provided by the home service provider. For the purposes of this section, "home service provider", "mobile telecommunications services", "customer" and "place of primary use" have the meanings given in the federal Mobile Telecommunications Sourcing Act; and

(3) "gross receipts" excludes:

(a) cash discounts allowed and taken;

(b) New Mexico gross receipts tax, governmental gross receipts tax and leased vehicle gross receipts tax payable on transactions for the reporting period;

(c) taxes imposed pursuant to the provisions of any local option gross receipts tax that is payable on transactions for the reporting period;

(d) any gross receipts or sales taxes imposed by an Indian nation, tribe or pueblo; provided that the tax is approved, if approval is required by federal law or regulation, by the secretary of the interior of the United States; and provided further that the gross receipts or sales tax imposed by the Indian nation, tribe or pueblo provides a reciprocal exclusion for gross receipts, sales or gross receipts-based excise taxes imposed by the state or its political subdivisions;

(e) any type of time-price differential;

(f) amounts received solely on behalf of another in a disclosed agency capacity; and

(g) amounts received by a New Mexico florist from the sale of flowers, plants or other products that are customarily sold by florists where the sale is made pursuant to orders placed with an out-of-state florist for filling and delivery in New Mexico by a New Mexico florist.

B. When the sale of property or service is made under any type of charge, conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor may elect to treat all receipts, excluding any type of time-price differential, under such contracts as gross receipts as and when the payments are actually received. If the seller or lessor transfers the seller's or lessor's interest in any such contract to a third person, the seller or lessor shall pay the gross receipts tax upon the full sale or leasing contract amount, excluding any type of time-price differential."

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House Bill 1228, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 340**

AN ACT

RELATING TO TAXATION; INCREASING THE PERCENTAGE OF THE SEVERANCE TAX PERMANENT FUND ALLOWED TO BE INVESTED IN NEW MEXICO FILM

PRIVATE EQUITY FUNDS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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

## **Chapter 340 Section 1 Laws 2007**

Section 1. Section 7-27-5.26 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 6, Section 2, as amended by Laws 2005, Chapter 101, Section 2 and by Laws 2005, Chapter 106, Section 1) is amended to read:

"7-27-5.26. INVESTMENT IN FILMS TO BE PRODUCED IN NEW MEXICO.

A. No more than six percent of the market value of the severance tax permanent fund may be invested in New Mexico film private equity funds or a New Mexico film project under this section.

B. If an investment is made under this section, not more than fifteen million dollars (\$15,000,000) of the amount authorized for investment pursuant to Subsection A of this section shall be invested in any one New Mexico film private equity fund or any one New Mexico film project.

C. The state investment officer shall make investments pursuant to this section only upon approval of the state investment council after a review by the private equity investment advisory committee and the New Mexico film division of the economic development department. The state investment officer may make debt or equity investments pursuant to this section only in New Mexico film projects or New Mexico film private equity funds that invest only in film projects that:

(1) are filmed wholly or substantially in New Mexico;

(2) have shown to the satisfaction of the New Mexico film division that a distribution contract is in place with a reputable distribution company;

(3) have agreed that, while filming in New Mexico, a majority of the production crew will be New Mexico residents;

(4) have posted a completion bond that has been approved by the New Mexico film division; provided that a completion bond shall not be required if the fund or project is guaranteed pursuant to Paragraph (5) of this subsection; and

(5) have obtained a full, unconditional and irrevocable guarantee of repayment of the invested amount in favor of the severance tax permanent fund:

(a) from an entity that has a credit rating of not less than Baa or BBB by a national rating agency;

(b) from a substantial subsidiary of an entity that has a credit rating of not less than Baa or BBB by a national rating agency;

(c) by providing a full, unconditional and irrevocable letter of credit from a United States incorporated bank with a credit rating of not less than A by a national rating agency; or

(d) from a substantial and solvent entity as determined by the state investment council in accordance with its standards and practices; or

(6) if not guaranteed pursuant to Paragraph (5) of this subsection, have obtained no less than one-third of the estimated total production costs from other sources as approved by the state investment officer.

D. The state investment officer may loan at a market rate of interest, with respect to an eligible New Mexico film project, up to eighty percent of an expected and estimated film production tax credit available to a film production company pursuant to the provisions of Section 7-2F-1 NMSA 1978; provided that the film production company agrees to name the state investment officer as its agent for the purpose of filing an application for the film production tax credit to which the company is entitled if the company does not apply for the film production tax credit. The New Mexico film division of the economic development department shall determine the estimated amount of a film production tax credit. The state investment council shall establish guidelines for the state investment officer's initiation of a loan and the terms of the loan.

E. As used in this section:

(1) "film project" means a single media or multimedia program, including advertising messages, fixed on film, videotape, computer disc, laser disc or other similar delivery medium from which the program can be viewed or reproduced and that is intended to be exhibited in theaters; licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means; or licensed for the home viewing market; and

(2) "New Mexico film private equity fund" means any limited partnership, limited liability company or corporation organized and operating in the United States that:

(a) has as its primary business activity the investment of funds in return for equity in film projects produced wholly or partly in New Mexico;

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

(c) accepts investments only from accredited investors as that term is defined in Section 2 of the federal Securities Act of 1933, as amended, and rules promulgated pursuant to that section."

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Senate Bill 739

Approved April 2, 2007

## **LAWS 2007, CHAPTER 341**

### **AN ACT**

RELATING TO EXPENDITURE OF PUBLIC MONEY; REAUTHORIZING OR REAPPROPRIATING BALANCES, EXPANDING OR CHANGING PURPOSES, EXTENDING EXPENDITURE PERIODS, CHANGING AGENCIES AND ESTABLISHING CONDITIONS FOR THE REVERSION OF UNEXPENDED BALANCES OF CAPITAL OUTLAY PROJECTS APPROVED BY THE LEGISLATURE IN PRIOR YEARS; DECLARING AN EMERGENCY.

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

### **Chapter 341 Section 1 Laws 2007**

Section 1. SEVERANCE TAX BONDS--REVERSION OF UNEXPENDED PROCEEDS.--

A. Except as otherwise provided in another section of this act, 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 as follows:

(1) for projects for which severance tax bonds were issued to match federal grants, six months after completion of the projects;

(2) for projects for which severance tax bonds were issued to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the severance tax bonds were issued for the purchase; and

(3) for all other projects for which severance tax bonds were issued, within six months of completion of the project, but no later than the end of fiscal year 2011.

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 341 Section 2 Laws 2007**

Section 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS -- LIMITATIONS -- REVERSIONS.--

A. Except as otherwise provided in another section of this act, the unexpended balance of an appropriation from the general fund or other state fund that has been changed in this act shall revert to the originating fund as follows:

(1) for projects for which appropriation were made to match federal grants, six months after completion of the project;

(2) for projects for which appropriations were made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; educational technology; or equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the appropriation was made for the purchase; and

(3) for all other projects for which appropriations were made, within six months of completion of the project, but no later than the end of fiscal year 2011.

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 341 Section 3 Laws 2007**

Section 3. SOUTHWEST REGIONAL SPACEPORT SITE INFRASTRUCTURE-- REMOVE CONTINGENCY LANGUAGE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the economic development department in Subsection 2 of Section 7 of Chapter 126 of Laws 2004 to design and construct roads, runways and other infrastructure for the southwest regional spaceport site project is appropriated for that purpose without contingency.

## **Chapter 341 Section 4 Laws 2007**

Section 4. BERNALILLO PUBLIC SCHOOL DISTRICT READER BOARD-- CHANGE AGENCY TO LOCAL GOVERNMENT DIVISION--GENERAL FUND.--The appropriation to the public education department in Subsection 364 of Section 39 of Chapter 111 of Laws 2006 for a reader board for the Bernalillo public school district in Sandoval county shall not be expended by that agency but is appropriated to the local government division for that purpose.

## **Chapter 341 Section 5 Laws 2007**

Section 5. FOURTH AND MONTANO INTERSECTION--CHANGE TO PEDESTRIAN SAFETY AND TRANSIT DEVELOPMENT IMPROVEMENTS ON FOURTH STREET IN LOS RANCHOS AND ALBUQUERQUE--GENERAL FUND.--The unexpended balance of the appropriation to the department of transportation in Subsection 12 of Section 52 of Chapter 347 of Laws 2005 for a continuous-flow intersection at the intersection of Fourth street and Montano road in the north valley of Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed for planning, design, right-of-way acquisition and construction designed to improve pedestrian safety and walkability, transit and transit-oriented development on Fourth street between Douglas MacArthur northwest and the village of Los Ranchos and at the Fourth street and Montano road intersection in Albuquerque.

## **Chapter 341 Section 6 Laws 2007**

Section 6. FOURTH AND MONTANO INTERSECTION--CHANGE TO PEDESTRIAN SAFETY AND TRANSIT DEVELOPMENT IMPROVEMENTS ON FOURTH STREET IN LOS RANCHOS AND ALBUQUERQUE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 5 of Section 20 of Chapter 347 of Laws 2005 for a continuous-flow intersection at the intersection of Fourth street and Montano road in the north valley of Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed for planning, design, right-of-way acquisition and construction designed to improve pedestrian safety and walkability, transit and transit-oriented development on Fourth street between Douglas MacArthur northwest and the village of Los Ranchos and at the Fourth street and Montano road intersection in Albuquerque.

## **Chapter 341 Section 7 Laws 2007**

Section 7. BACHECHI PARK MULTIPURPOSE CENTER IN BERNALILLO COUNTY--CHANGE TO OPEN SPACE IMPROVEMENTS AND MASTER PLAN IMPLEMENTATION--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 17 of Section 18 of Chapter 111 of Laws 2006 for a multipurpose center at Bachechi park in Bernalillo county shall not be expended for the original purpose but is changed for facility improvements and master plan implementation at the Bachechi open space in that county.

## **Chapter 341 Section 8 Laws 2007**

Section 8. BERNALILLO COUNTY RAPE CRISIS CENTER--CHANGE TO CONSTRUCTION, PURCHASE AND EQUIPPING OF A FACILITY--GENERAL FUND.-  
-The unexpended balance of the appropriation to the local government division in Subsection 38 of Section 45 of Chapter 347 of Laws 2005 to renovate, improve and equip a rape crisis center in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and construct or purchase and

renovate a facility as well as equip that facility for use as a rape crisis center in that county.

### **Chapter 341 Section 9 Laws 2007**

Section 9. BERNALILLO COUNTY RAPE CRISIS CENTER--EXPAND PURPOSE TO INCLUDE EQUIPMENT--SEVERANCE TAX BONDS.--The local government division project in Subsection 206 of Section 16 of Chapter 347 of Laws 2005 to plan, design and construct or purchase and renovate a facility for use as a rape crisis center in Bernalillo county may include equipping that facility.

### **Chapter 341 Section 10 Laws 2007**

Section 10. BERNALILLO COUNTY RAPE CRISIS CENTER--CHANGE PURPOSE TO PURCHASE, RENOVATE OR CONSTRUCT AND EQUIP--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 27 of Section 18 of Chapter 111 of Laws 2006 to renovate, improve and equip a rape crisis center in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and construct or purchase and renovate a facility as well as equip that facility for use as a rape crisis center in that county.

### **Chapter 341 Section 11 Laws 2007**

Section 11. BERNALILLO COUNTY RAPE CRISIS CENTER--EXPAND TO INCLUDE EQUIPMENT--GENERAL FUND.--The local government division project in Subsection 371 of Section 45 of Chapter 347 of Laws 2005 to plan, design and construct or purchase and renovate a facility for use as a rape crisis center in Bernalillo county may include equipping that facility.

### **Chapter 341 Section 12 Laws 2007**

Section 12. BERNALILLO COUNTY RAPE CRISIS CENTER--CHANGE TO CONSTRUCTION, PURCHASE AND EQUIPPING OF A FACILITY--GENERAL FUND.-The unexpended balance of the appropriation to the local government division in Subsection 27 of Section 52 of Chapter 111 of Laws 2006 to renovate, improve and equip a rape crisis center in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and construct or purchase and renovate a facility as well as equip that facility for use as a rape crisis center in that county.

### **Chapter 341 Section 13 Laws 2007**

Section 13. BERNALILLO COUNTY SHERIFF'S DEPARTMENT ALCOHOL TESTING EQUIPMENT--EXTEND TIME--GENERAL FUND.--The time of the

expenditure for the local government division project in Subsection 21 of Section 45 of Chapter 347 of Laws 2005 to purchase alcohol testing equipment for the Bernalillo county sheriff's department is extended through fiscal year 2009.

### **Chapter 341 Section 14 Laws 2007**

Section 14. BERNALILLO COUNTY SHERIFF'S DEPARTMENT ALCOHOL TESTING EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the local government division project in Subsection 198 of Section 16 of Chapter 347 of Laws 2005 to purchase alcohol testing equipment for the Bernalillo county sheriff's department is extended through fiscal year 2009.

### **Chapter 341 Section 15 Laws 2007**

Section 15. CARNUEL MUTUAL DOMESTIC WATER AND WASTEWATER CONSUMERS ASSOCIATION WATER STORAGE TANK AND FOUNDATION--CHANGE TO WATER SYSTEM IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 3 of Section 113 of Chapter 126 of Laws 2004 for a foundation and water storage tank for the Carnuel mutual domestic water and wastewater consumers association in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and construct water system improvements for that association.

### **Chapter 341 Section 16 Laws 2007**

Section 16. CLINTON P. ANDERSON OPEN SPACE PARK--EXPAND PURPOSE TO INCLUDE LAND PURCHASE--GENERAL FUND.--The local government division project in Subsection 104 of Section 52 of Chapter 111 of Laws 2006 to plan, design, construct and equip Clinton P. Anderson open space park in Adobe Acres in Bernalillo county may include the purchase of land.

### **Chapter 341 Section 17 Laws 2007**

Section 17. TRAMWAY BOULEVARD WALL--CHANGE TO SANDIA HEIGHTS ROADWAY IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 15 of Section 22 of Chapter 111 of Laws 2006 for a wall for noise abatement along Tramway boulevard shall not be expended for the original purpose but is changed to plan, design and construct roadway improvements, including drainage, repaving and replacement of existing structures and related improvements, in Sandia Heights in Bernalillo county.

### **Chapter 341 Section 18 Laws 2007**

Section 18. BERNALILLO COUNTY JUVENILE DETENTION CENTER ELECTRONIC MONITORING EQUIPMENT--CHANGE TO AFRICAN-AMERICAN

PERFORMING ARTS CENTER AND EXHIBIT HALL ARTWORK AND EQUIPMENT--CHANGE AGENCY--CAPITAL PROJECTS FUND.--The unexpended balance for the second judicial district court project originally authorized in Subsection B of Section 22 of Chapter 126 of Laws 2004 and reauthorized and reappropriated to the local government division in Laws 2005, Chapter 347, Section 91 for electronic monitoring equipment and a satellite tracking device for domestic violence purposes for the Bernalillo county juvenile detention center shall not be expended for the original or the reauthorized purpose but is appropriated to the office on African American affairs to purchase and install artwork and equipment at the African-American performing arts center and exhibit hall in Albuquerque in Bernalillo county.

### **Chapter 341 Section 19 Laws 2007**

Section 19. LADERA DRIVE IMPROVEMENTS IN BERNALILLO COUNTY--CHANGE TO VANS FOR THE ALAMOSA COMMUNITY CENTER--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the department of transportation in Subsection 13 of Section 52 of Chapter 347 of Laws 2005 for improvements to Ladera drive in Bernalillo county shall not be expended for the original purpose but is appropriated to the local government division to purchase vans for the Alamosa community center in Albuquerque.

### **Chapter 341 Section 20 Laws 2007**

Section 20. ARROYO VISTA ROAD IMPROVEMENTS IN BERNALILLO COUNTY--CHANGE TO ALAMOSA PARK RENOVATIONS--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the department of transportation in Subsection 14 of Section 52 of Chapter 347 of Laws 2005 for improvements to Arroyo Vista road in Bernalillo county shall not be expended for the original purpose but is appropriated to the local government division to plan, design and renovate Alamosa park in Albuquerque.

### **Chapter 341 Section 21 Laws 2007**

Section 21. SHORT-TERM HOUSING FOR FAMILIES OF AIDS PATIENTS IN ALBUQUERQUE--CHANGE TO HOUSING FOR HIV-POSITIVE PATIENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 27 of Section 13 of Chapter 126 of Laws 2004 to construct

short-term housing for families of children with AIDS in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to housing for people who are HIV-positive in need of short- and long-term mental health treatment in Bernalillo county.

### **Chapter 341 Section 22 Laws 2007**

Section 22. ALBUQUERQUE PASSENGER RAIL PROJECT AND BARELAS AND SOUTH BROADWAY ECONOMIC DEVELOPMENT PROJECT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the local government division project originally authorized in Subsection 24 of Section 22 of Chapter 110 of Laws 2002 and reauthorized in Laws 2003, Chapter 429, Section 65 for passenger rail service design and engineering for the Albuquerque station project and an economic development project in the Barelmas and south Broadway neighborhoods of Albuquerque in Bernalillo county is extended through fiscal year 2011.

### **Chapter 341 Section 23 Laws 2007**

Section 23. ALBUQUERQUE WESTSIDE SUBSTANCE ABUSE AND ALCOHOL TREATMENT REHABILITATION PROGRAM--CHANGE AGENCY--GENERAL FUND.--The agency for the corrections department project in Subsection 3 of Section 26 of Chapter 347 of Laws 2005 for a six- to nine-month long-term substance abuse and alcohol treatment rehabilitation program at the westside facility in Albuquerque in Bernalillo county is changed to the board of regents of the university of New Mexico.

### **Chapter 341 Section 24 Laws 2007**

Section 24. DELAMAR STREET SIDEWALK REPAIRS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the local government division project originally authorized in Subsection 47 of Section 22 of Chapter 110 of Laws 2002 and reauthorized in Laws 2003, Chapter 429, Section 67 for sidewalk repairs on Delamar street in Albuquerque in Bernalillo county is extended through fiscal year 2011.

### **Chapter 341 Section 25 Laws 2007**

Section 25. LA CUEVA HIGH SCHOOL CLUSTER EDUCATIONAL TECHNOLOGY--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the public education department project in Subsection 197 of Section 48 of Chapter 347 of Laws 2005 for educational technology for La Cueva high school cluster in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2009.

### **Chapter 341 Section 26 Laws 2007**

Section 26. LA FAMILIA PARK--EXPAND PURPOSE TO DEMOLISH EXISTING STRUCTURES--SEVERANCE TAX BONDS.--The local government division project in Subsection 29 of Section 16 of Chapter 347 of Laws 2005 to design, construct, equip and furnish La Familia park in the south valley of Albuquerque in Bernalillo county may include demolishing existing structures.

### **Chapter 341 Section 27 Laws 2007**

Section 27. MANZANO MESA MULTIGENERATIONAL CENTER IMPROVEMENTS--CHANGE AGENCY--CAPITAL PROJECTS FUND.--The aging and long-term services department project originally authorized in Subsection 8 of Section 20 of Chapter 126 of Laws 2004 for partitions and ramps at the Manzano Mesa multigenerational center in Albuquerque in Bernalillo county and reauthorized in Laws 2006, Chapter 107, Section 15 for building and exterior improvements and renovations to that center is appropriated to the local government division for that reauthorized purpose.

### **Chapter 341 Section 28 Laws 2007**

Section 28. SANTA TERESA BORDER AUTHORITY FACILITY--CHANGE TO ALBUQUERQUE MERLIDA ALLEY IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance for the economic development department project originally authorized in Subsection 1 of Section 12 of Chapter 110 of Laws 2002 and reauthorized and reappropriated to the border authority in Laws 2003, Chapter 429, Section 46 to construct and equip a building for the border authority in Santa Teresa in Dona Ana county shall not be expended for the original or the reauthorized purpose but is appropriated to the department of transportation to plan, design and construct improvements to Merlida alley in the Alamosa neighborhood of Albuquerque in Bernalillo county. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 29 Laws 2007**

Section 29. RIO GRANDE HIGH SCHOOL POOL IMPROVEMENTS--EXPAND PURPOSE TO INCLUDE PLANNING, DESIGN AND RENOVATION--CHANGE AGENCY--GENERAL FUND.--The public education department project in Subsection 141 of Section 39 of Chapter 111 of Laws 2006 to construct improvements to the pool at Rio Grande high school in the Albuquerque public school district in Bernalillo county is appropriated to the local government division and may include planning, design and renovations to that pool.

### **Chapter 341 Section 30 Laws 2007**

Section 30. SOUTHWEST INDIAN POLYTECHNIC INSTITUTE NATIVE BUSINESS LEADERSHIP CENTER--CHANGE TO AN EARLY CHILDHOOD EDUCATION CENTER AND SECURITY EQUIPMENT--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 66 of Section 43 of Chapter 347 of Laws 2005 for a native business leadership center at southwestern Indian polytechnic institute in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and construct an early childhood education center and to purchase and install safety and security equipment at that institute.

### **Chapter 341 Section 31 Laws 2007**

Section 31. SOUTHWEST INDIAN POLYTECHNIC INSTITUTE NATIVE BUSINESS LEADERSHIP CENTER--CHANGE TO EARLY CHILDHOOD EDUCATION CENTER AND SECURITY EQUIPMENT--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 1 of Section 15 of Chapter 347 of Laws 2005 for a native business leadership and education facility at the southwest Indian polytechnic institute in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and construct an early childhood education center and to purchase and install safety and security equipment for that institute.

### **Chapter 341 Section 32 Laws 2007**

Section 32. SOUTHEAST ALBUQUERQUE HEALTH CARE CENTER RENOVATION--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 211 of Section 16 of Chapter 347 of Laws 2005 to plan, design and renovate a health care center in southeast Albuquerque in Bernalillo county shall not be expended by that agency but is appropriated to the Indian affairs department for that project.

### **Chapter 341 Section 33 Laws 2007**

Section 33. STATE LABORATORY SERVICES BUILDING--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the general services department project in Subsection 2 of Section 24 of Chapter 110 of Laws 2002 to plan, design, construct and equip a state laboratory services building at the university of New Mexico in Albuquerque in Bernalillo county is extended through fiscal year 2010.

### **Chapter 341 Section 34 Laws 2007**

Section 34. EDUCATIONAL TECHNOLOGY AND LIBRARY EQUIPMENT AT ARROYO DEL OSO ELEMENTARY SCHOOL IN THE ALBUQUERQUE PUBLIC SCHOOL DISTRICT--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the public education department project in Subsection 222 of Section 48 of Chapter 347 of Laws 2005 for library equipment and educational technology at Arroyo del Oso elementary school in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2009.

### **Chapter 341 Section 35 Laws 2007**

Section 35. BANDELIER ELEMENTARY SCHOOL IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the public education department project in Subsection 3 of Section 23 of Chapter 110 of Laws 2002 for improvements at Bandelier elementary school in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2011.

## **Chapter 341 Section 36 Laws 2007**

Section 36. DEL NORTE HIGH SCHOOL LIBRARY BOOK PURCHASE--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the public education department project in Subsection 81 of Section 48 of Chapter 347 of Laws 2005 for the purchase of non-textbook books for the library at Del Norte high school in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2009.

## **Chapter 341 Section 37 Laws 2007**

Section 37. DEL NORTE HIGH SCHOOL LIBRARY RESEARCH BOOK PURCHASE--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the public education department project in Subsection 41 of Section 48 of Chapter 347 of Laws 2005 for the purchase of research books for the Del Norte high school library in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2009.

## **Chapter 341 Section 38 Laws 2007**

Section 38. DEL NORTE HIGH SCHOOL WEIGHT TRAINING EQUIPMENT--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the public education department project in Subsection 75 of Section 48 of Chapter 347 of Laws 2005 for weight training equipment at Del Norte high school in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2009.

## **Chapter 341 Section 39 Laws 2007**

Section 39. EDUCATIONAL TECHNOLOGY AT EDMUND G. ROSS ELEMENTARY SCHOOL IN THE ALBUQUERQUE PUBLIC SCHOOL DISTRICT--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the public education department project in Subsection 46 of Section 48 of Chapter 347 of Laws 2005 for educational technology at Edmund G. Ross elementary school in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2009.

## **Chapter 341 Section 40 Laws 2007**

Section 40. GOVERNOR BENT ELEMENTARY SCHOOL EDUCATIONAL TECHNOLOGY--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the public education department project in Subsection 62 of Section 48 of Chapter 347 of Laws 2005 for the purchase of educational technology for Governor Bent elementary school in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2009.

## **Chapter 341 Section 41 Laws 2007**

Section 41. HIGHLAND HIGH SCHOOL EDUCATIONAL TECHNOLOGY--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the public education department project in Subsection 17 of Section 48 of Chapter 347 of Laws 2005 to purchase and install educational technology at Highland high school in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2009.

### **Chapter 341 Section 42 Laws 2007**

Section 42. EDUCATIONAL TECHNOLOGY AT HODGIN ELEMENTARY SCHOOL IN THE ALBUQUERQUE PUBLIC SCHOOL DISTRICT--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the public education department project in Subsection 221 of Section 48 of Chapter 347 of Laws 2005 for educational technology at Hodgin elementary school in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2009.

### **Chapter 341 Section 43 Laws 2007**

Section 43. GOVERNOR BENT ELEMENTARY SCHOOL PLUMBING IN ALBUQUERQUE--CHANGE TO PLAYGROUND EQUIPMENT FOR HODGIN ELEMENTARY SCHOOL--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 319 of Section 23 of Chapter 110 of Laws 2002 to install plumbing and related improvements at Governor Bent elementary school in the Albuquerque public school district in Bernalillo county shall not be expended for the original purpose but is changed to purchase and install playground and recreational equipment at Hodgin elementary school in the Albuquerque public school district and is extended through fiscal year 2009.

### **Chapter 341 Section 44 Laws 2007**

Section 44. LA LUZ ELEMENTARY SCHOOL LANDSCAPE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the public education department project in Subsection 66 of Section 23 of Chapter 110 of Laws 2002 to landscape the front and approach to La Luz elementary school in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2011.

### **Chapter 341 Section 45 Laws 2007**

Section 45. LA PROMESA EARLY CHILDHOOD LEARNING CENTER CONSTRUCTION AND MODULAR BUILDINGS--CHANGE TO BUILDING PURCHASE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 12 of Section 19 of Chapter 347 of Laws 2005 to construct, purchase and remodel modular buildings for La Promesa early childhood learning center charter school in the Albuquerque public school district in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and purchase a building for that school in that district.

## **Chapter 341 Section 46 Laws 2007**

Section 46. LA PROMESA EARLY CHILDHOOD LEARNING CENTER CONSTRUCTION AND MODULAR BUILDINGS--CHANGE TO BUILDING PURCHASE--GENERAL FUND.--The unexpended balance of the appropriation to the public education department in Subsection 27 of Section 48 of Chapter 347 of Laws 2005 to construct, purchase and remodel modular buildings for La Promesa early childhood learning center charter school in the Albuquerque public school district in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and purchase a building for that school in that district.

## **Chapter 341 Section 47 Laws 2007**

Section 47. LA PROMESA EARLY CHILDHOOD LEARNING CENTER FACILITIES CONSTRUCT--CHANGE TO BUILDING PURCHASE--GENERAL FUND.--The unexpended balance of the appropriation to the public education department in Subsection 24 of Section 39 of Chapter 111 of Laws 2006 to construct facilities for La Promesa early childhood learning center charter school in the Albuquerque public school district in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and purchase a building for that school in that district.

## **Chapter 341 Section 48 Laws 2007**

Section 48. LA PROMESA EARLY CHILDHOOD LEARNING CENTER FACILITIES CONSTRUCT--CHANGE TO BUILDING PURCHASE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 11 of Section 8 of Chapter 111 of Laws 2006 to construct facilities for La Promesa early childhood learning center charter school in the Albuquerque public school district in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and purchase a building for that school in that district.

## **Chapter 341 Section 49 Laws 2007**

Section 49. MADISON MIDDLE SCHOOL LIBRARY BOOK PURCHASE--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the public education department project in Subsection 78 of Section 48 of Chapter 347 of Laws 2005 for the purchase of non-textbook books for the library at Madison middle school in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2009.

## **Chapter 341 Section 50 Laws 2007**

Section 50. SANDIA HIGH SCHOOL LIBRARY BOOK PURCHASE--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the public education

department project in Subsection 77 of Section 48 of Chapter 347 of Laws 2005 for the purchase of non-

textbook books for the library at Sandia high school in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2009.

### **Chapter 341 Section 51 Laws 2007**

Section 51. SOUTH VALLEY ACADEMY SCIENCE FACILITY CONSTRUCTION--CHANGE TO BUILDING PURCHASE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 81 of Section 19 of Chapter 347 of Laws 2005 to plan, design, construct and equip a science facility at South Valley academy in the Albuquerque public school district in Bernalillo county shall not be expended for the original purpose but is changed to purchase a building to be used as a science facility at that school in that school district.

### **Chapter 341 Section 52 Laws 2007**

Section 52. SOUTHWEST SECONDARY LEARNING CENTER FITNESS EQUIPMENT--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the public education department project in Subsection 2 of Section 48 of Chapter 347 of Laws 2005 for fitness equipment for Southwest secondary learning center in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2009.

### **Chapter 341 Section 53 Laws 2007**

Section 53. LOS POBLANOS AND ANDERSON FIELDS OPEN SPACE--CHANGE TO LOS RANCHOS DE ALBUQUERQUE OPEN SPACE--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 21 of Section 52 of Chapter 111 of Laws 2006 to purchase open space land adjacent to Los Poblanos and Anderson fields in Los Ranchos de Albuquerque shall not be expended for the original purpose but is changed to purchase open space land in Los Ranchos de Albuquerque in Bernalillo county.

### **Chapter 341 Section 54 Laws 2007**

Section 54. CATRON COUNTY MEDICAL CENTER EQUIPMENT--CHANGE TO GLENWOOD COMMUNITY HEALTH CENTER EQUIPMENT AND FURNITURE--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 152 of Section 52 of Chapter 111 of Laws 2006 for x-ray equipment for the Catron county medical center shall not be expended for the original purpose but is changed to purchase and install medical equipment and furniture at the Glenwood community health center in Catron county.

## **Chapter 341 Section 55 Laws 2007**

Section 55. ROSWELL BRONZE PIONEER SCULPTURE--CHANGE LOCATION TO CHAVES COUNTY--GENERAL FUND.--The location of the local government division project in Subsection 177 of Section 52 of Chapter 111 of Laws 2006 to design, construct and install a bronze pioneer sculpture in Roswell is changed to Chaves county.

## **Chapter 341 Section 56 Laws 2007**

Section 56. ROSWELL VISITORS' CENTER--CHANGE TO CHAVES COUNTY VISITORS' CENTER--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 194 of Section 52 of Chapter 111 of Laws 2006 for a visitors' center in Roswell shall not be expended for the original purpose but is changed to plan, design, construct and renovate the visitors' center in Chaves county.

## **Chapter 341 Section 57 Laws 2007**

Section 57. PENASCO FIRE DEPARTMENT IMPROVEMENTS--EXPAND TO INCLUDE WELLS, PIPELINES AND STATION EXPANSION--SEVERANCE TAX BONDS.--The local government division project in Subsection 220 of Section 16 of Chapter 347 of Laws 2005 to construct improvements, including the replacement of the radio antenna, at the Penasco fire department in Chaves county may include drilling water wells, extending pipelines and expanding the fire department substation.

## **Chapter 341 Section 58 Laws 2007**

Section 58. PENASCO FIRE DEPARTMENT IMPROVEMENTS--EXPAND TO INCLUDE WELLS, PIPELINES AND STATION EXPANSION--GENERAL FUND.--The local government division project in Subsection 166 of Section 52 of Chapter 111 of Laws 2006 to construct improvements to facilities for the Penasco fire department in Chaves county may include drilling water wells, extending pipelines and expanding the fire department substation.

## **Chapter 341 Section 59 Laws 2007**

Section 59. NEW MEXICO HIGHWAY 70/380 IMPROVE--CLARIFYING PROJECT AS UNITED STATES HIGHWAY 70/380--SEVERANCE TAX BONDS.--The department of transportation project in Subsection 44 of Section 22 of Chapter 111 of Laws 2006 is for drainage improvements, including resurfacing, to United States highway 70/380 and adjacent areas in Chaves county.

## **Chapter 341 Section 60 Laws 2007**

Section 60. DEXTER CONSOLIDATED SCHOOL DISTRICT WATER RIGHTS--CHANGE TO FITNESS CENTER BUILDING--GENERAL FUND.--The unexpended balance of the appropriation to the public education department in Subsection 208 of Section 39 of Chapter 111 of Laws 2006 for the purchase of water rights for the Dexter consolidated school district in Chaves county shall not be expended for the original purpose but is changed to plan and design a fitness center building for that school district.

### **Chapter 341 Section 61 Laws 2007**

Section 61. HAGERMAN GARAGE DOOR MANUFACTURING BUILDING--CHANGE TO INDUSTRIAL PARK--GENERAL FUND.--The unexpended balance of the appropriation to the economic development department in Subsection 1 of Section 38 of Chapter 111 of Laws 2006 for a building and infrastructure for the garage door manufacturing building in Hagerman in Chaves county shall not be expended for the original purpose but is changed to plan, design and construct infrastructure improvements for an industrial park in Hagerman.

### **Chapter 341 Section 62 Laws 2007**

Section 62. KANSAS STREET RECONSTRUCTION--EXPAND TO INCLUDE ALL STREETS IN LAKE ARTHUR--SEVERANCE TAX BONDS.--The department of transportation project in Subsection 23 of Section 119 of Chapter 126 of Laws 2004 for Kansas street reconstruction may also be expended to plan, design and reconstruct streets in Lake Arthur in Chaves county.

### **Chapter 341 Section 63 Laws 2007**

Section 63. CHAVES COUNTY COURTHOUSE STATUARY PURCHASE--EXPAND PURPOSE AND EXTEND TIME--SEVERANCE TAX BONDS.--The local government division project originally authorized in Subsection 8 of Section 14 of Chapter 110 of Laws 2002 and reauthorized in Laws 2004, Chapter 126, Section 162 to purchase a statuary for the Chaves county courthouse and Pat Garrett park in Roswell in Chaves county may include design of a model for the statuary and is extended through fiscal year 2009.

### **Chapter 341 Section 64 Laws 2007**

Section 64. CHAVES COUNTY BLACKDOM MEMORIAL--CHANGE LOCATION TO ROSWELL--SEVERANCE TAX BONDS.--The location of the local government division project in Subsection 216 of Section 16 of Chapter 347 of Laws 2005 for a Blackdom memorial in Chaves county is changed to Roswell in Chaves county.

### **Chapter 341 Section 65 Laws 2007**

Section 65. ROSWELL STATUE FOR BLACKDOM SETTLEMENT--CHANGE TO PLAN, DESIGN AND CONSTRUCT BLACKDOM MEMORIAL IN ROSWELL--CAPITAL PROJECTS FUND.--The unexpended balance of the appropriation to the local government division in Subsection 138 of Section 134 of Chapter 126 of Laws 2004 for a statue commemorating the Blackdom settlement in Roswell in Chaves county shall not be expended for the original purpose but is changed to plan, design and construct a Blackdom memorial in Roswell.

### **Chapter 341 Section 66 Laws 2007**

Section 66. BLACKDOM STATUE--CHANGE PURPOSE TO BLACKDOM MEMORIAL--CAPITAL PROJECTS FUND.--The unexpended balance of the appropriation to the local government division in Subsection 110 of Section 34 of Chapter 126 of Laws 2004 for a statue to commemorate the Blackdom settlement in Roswell in Chaves county shall not be expended for the original purpose but is changed to plan, design and construct a Blackdom memorial in Roswell.

### **Chapter 341 Section 67 Laws 2007**

Section 67. CHAVES COUNTY BLACKDOM MEMORIAL--CHANGE LOCATION TO ROSWELL--GENERAL FUND.--The location of the local government division project in Subsection 80 of Section 45 of Chapter 347 of Laws 2005 for a Blackdom memorial in Chaves county is changed to Roswell in Chaves county.

### **Chapter 341 Section 68 Laws 2007**

Section 68. BLACKDOM STATUE COMMEMORATION--CHANGE PURPOSE TO BLACKDOM MEMORIAL--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 152 of Section 117 of Chapter 126 of Laws 2004 for a statue to commemorate the Blackdom settlement in Roswell in Chaves county shall not be expended for the original purpose but is changed to plan, design and construct a Blackdom memorial in Roswell.

### **Chapter 341 Section 69 Laws 2007**

Section 69. BLACKDOM MEMORIAL--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The local government division project in Subsection 515 of Section 22 of Chapter 429 of Laws 2003 to construct the Blackdom memorial in Roswell in Chaves county may include planning and design.

### **Chapter 341 Section 70 Laws 2007**

Section 70. BLACKDOM HISTORIC MARKER--CHANGE TO BLACKDOM MEMORIAL--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division originally authorized in Subsection

360 of Section 22 of Chapter 110 of Laws 2002 and reauthorized in Laws 2003, Chapter 429, Section 161 for a Blackdom historic marker shall not be expended for the original or reauthorized purpose but is changed to plan, design and construct a Blackdom memorial in Roswell in Chaves county. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 71 Laws 2007**

Section 71. ROSWELL FIRE DEPARTMENT EQUIPMENT--EXTEND TIME--CAPITAL PROJECTS FUND.--The time of the expenditure for the local government division project in Subsection 106 of Section 34 of Chapter 126 of Laws 2004 to purchase equipment for the fire department in Roswell in Chaves county is extended through fiscal year 2009.

### **Chapter 341 Section 72 Laws 2007**

Section 72. ROSWELL YOUTH FOOTBALL LEAGUE EQUIPMENT--EXTEND TIME--CAPITAL PROJECTS FUND.--The time of the expenditure for the local government division project in Subsection 105 of Section 34 of Chapter 126 of Laws 2004 for Roswell youth football league equipment is extended through fiscal year 2008.

### **Chapter 341 Section 73 Laws 2007**

Section 73. DEL NORTE ELEMENTARY SCHOOL EDUCATIONAL TECHNOLOGY--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the public education department project in Subsection 111 of Section 48 of Chapter 347 of Laws 2005 to purchase and install educational technology at Del Norte elementary school in the Roswell independent school district in Chaves county is extended through fiscal year 2008.

### **Chapter 341 Section 74 Laws 2007**

Section 74. SIERRA MIDDLE SCHOOL EDUCATIONAL TECHNOLOGY--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the public education department project in Subsection 283 of Section 48 of Chapter 347 of Laws 2005 for educational technology at Sierra middle school in the Roswell independent school district in Chaves county is extended through fiscal year 2009.

### **Chapter 341 Section 75 Laws 2007**

Section 75. BIBO CANYON ROAD REPAIR--CHANGE TO CEBOLLETA LAND GRANT WASTEWATER SYSTEM IMPROVEMENTS--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 69 of Section 20 of Chapter 347 of Laws 2005 for repairs to Bibo Canyon road in the Cebolleta land grant in Cibola county shall

not be expended for the original purpose but is appropriated to the department of environment to plan, design and construct improvements to the Cebolleta land grant wastewater system in that county.

### **Chapter 341 Section 76 Laws 2007**

Section 76. RAMAH NAVAJO CHAPTER PINE HILL BATHROOM ADDITIONS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 36 of Section 20 of Chapter 110 of Laws 2002 for bathroom additions in the Pine Hill community of the Ramah Navajo chapter in Cibola county is extended through fiscal year 2011.

### **Chapter 341 Section 77 Laws 2007**

Section 77. PUEBLO OF ACOMA LANGUAGE CENTER BUILDING CONSTRUCTION -- CHANGE TO MODULAR BUILDING PURCHASE -- GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 25 of Section 50 of Chapter 111 of Laws 2006 for renovations to the language center building at the Pueblo of Acoma in Cibola county shall not be expended for the original purpose but is changed to plan, design, purchase and install a modular building for use by the Acoma language program at that pueblo.

### **Chapter 341 Section 78 Laws 2007**

Section 78. PUEBLO OF ACOMA POLICE TRANSPORT VAN PURCHASE--EXTEND TIME--CAPITAL PROJECTS FUND.--The time of the expenditure for the Indian affairs department project in Subsection 11 of Section 131 of Chapter 126 of Laws 2004 for the purchase of a police transport van for the Pueblo of Acoma in Cibola county is extended through fiscal year 2009.

### **Chapter 341 Section 79 Laws 2007**

Section 79. ACOMA BOYS' AND GIRLS' CLUB BUSES--CHANGE TO ACOMA YOUTH VEHICLE--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 7 of Section 43 of Chapter 347 of Laws 2005 for a boys' and girls' club bus purchase for the Pueblo of Acoma in Cibola county shall not be expended for the original purpose but is changed to purchase a vehicle for youth at the Pueblo of Acoma.

### **Chapter 341 Section 80 Laws 2007**

Section 80. GRANTS COURTHOUSE CONSTRUCTION--CHANGE TO CITY HALL RENOVATION--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 92 of Section 45 of Chapter 347 of Laws 2005 to construct a courthouse in Grants in Cibola county shall not

be expended for the original purpose but is changed to renovate the city hall in Grants. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 81 Laws 2007**

Section 81. GRANTS FOOD DISTRIBUTION CENTER RENOVATION--CHANGE TO PLAYGROUND EQUIPMENT FOR THE CITY OF GRANTS--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 209 of Section 52 of Chapter 111 of Laws 2006 to renovate a food distribution center in Grants in Cibola county shall not be expended for the original purpose but is changed to purchase playground equipment in that city.

### **Chapter 341 Section 82 Laws 2007**

Section 82. GRANTS WATER WELL CONSTRUCTION AND REPAIR--CHANGE TO DRILLING AND EQUIPPING--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the department of environment in Subsection 9 of Section 45 of Chapter 111 of Laws 2006 to plan, design, construct, repair and improve a water well in Grants in Cibola county shall not be expended for the original purpose but is changed to drill and equip a water well in Grants. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 83 Laws 2007**

Section 83. GRANTS WOMEN'S CORRECTIONAL FACILITY VISITOR CENTER--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the general services department project in Subsection 4 of Section 24 of Chapter 110 of Laws 2002 for materials construction and equipment for the visitation center at the New Mexico women's correctional facility in Grants in Cibola county is extended through fiscal year 2008.

### **Chapter 341 Section 84 Laws 2007**

Section 84. PUEBLO OF LAGUNA INTEGRATED JUVENILE AND ADULT DETENTION CENTER, POLICE HEADQUARTERS AND JUDICIAL COMPLEX--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project originally authorized in Subsection B of Section 13 of Chapter 23 of Laws 2000 (2nd S.S.) and reauthorized in Laws 2002, Chapter 99, Section 39 for an integrated juvenile and adult detention center, police headquarters and judicial complex in the Pueblo of Laguna in Cibola county is extended through fiscal year 2011.

### **Chapter 341 Section 85 Laws 2007**

Section 85. PUEBLO OF LAGUNA INTEGRATED JUVENILE AND ADULT DETENTION CENTER, POLICE HEADQUARTERS AND JUDICIAL COMPLEX--

EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project originally authorized in Subsection F of Section 12 of Chapter 7 of Laws 1998 and reauthorized in Laws 2002, Chapter 99, Section 50 for an integrated juvenile and adult detention center, police headquarters and judicial complex in the Pueblo of Laguna in Cibola county is extended through fiscal year 2011.

### **Chapter 341 Section 86 Laws 2007**

Section 86. PUEBLO OF LAGUNA INTEGRATED JUVENILE AND ADULT DETENTION CENTER, POLICE HEADQUARTERS AND JUDICIAL COMPLEX--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project originally authorized in Subsection SSSS of Section 9 of Chapter 7 of Laws 1998 and reauthorized in Laws 2002, Chapter 99, Section 40 for an integrated juvenile and adult detention center, police headquarters and judicial complex in the Pueblo of Laguna in Cibola county is extended through fiscal year 2011.

### **Chapter 341 Section 87 Laws 2007**

Section 87. LAGUNA FAMILY CENTER HEAD START TRAINING CENTER--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 34 of Section 20 of Chapter 110 of Laws 2002 for a training center for the head start area of the Laguna family center project at the Pueblo of Laguna in Cibola county is extended through fiscal year 2011.

### **Chapter 341 Section 88 Laws 2007**

Section 88. BLUEWATER-TOLTEC IRRIGATION DISTRICT IMPROVEMENTS--EXTEND TIME--NEW MEXICO IRRIGATION WORKS CONSTRUCTION FUND.--The time of the expenditure for the office of the state engineer project in Subsection 2 of Section 60 of Chapter 110 of Laws 2002 to construct a ditch and extension for the Bluewater-Toltec irrigation district is extended through fiscal year 2008.

### **Chapter 341 Section 89 Laws 2007**

Section 89. PINE HILL COMMUNITY OF THE RAMAH NAVAJO CHAPTER BATHROOM ADDITIONS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 1 of Section 20 of Chapter 110 of Laws 2002 for bathroom additions in the vicinity of the Pine Hill community of the Ramah Navajo chapter in Cibola county is extended through fiscal year 2011.

### **Chapter 341 Section 90 Laws 2007**

Section 90. PINE HILL SEWER LAGOON--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in

Subsection 37 of Section 20 of Chapter 110 of Laws 2002 for construction of a sewer lagoon to serve the Pine Hill school and the Ramah Navajo community in Cibola county is extended through fiscal year 2011.

### **Chapter 341 Section 91 Laws 2007**

Section 91. PINE HILL SCHOOL FARM IN THE NAVAJO NATION TRACTOR PURCHASE--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the Indian affairs department project in Subsection 5 of Section 43 of Chapter 347 of Laws 2005 for purchase of a tractor for Pine Hill school farm in the Ramah chapter of the Navajo Nation in Cibola county is extended through fiscal year 2009.

### **Chapter 341 Section 92 Laws 2007**

Section 92. GALLUP COMMUNITY-BASED PROGRAM EQUIPMENT--CHANGE TO RAMAH SENIOR CENTER EQUIPMENT--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 444 of Section 45 of Chapter 347 of Laws 2005 to purchase equipment for a community-based program for children with developmental delays or disabilities in Gallup shall not be expended for the original purpose but is appropriated to the aging and long-term services department to purchase and install equipment for the Ramah senior center in the Ramah chapter of the Navajo Nation in Cibola county.

### **Chapter 341 Section 93 Laws 2007**

Section 93. COLFAX COUNTY FAIRGROUND IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the public education department project originally authorized in Subsection 198 of Section 23 of Chapter 110 of Laws 2002 and reauthorized and appropriated to the local government division in Laws 2003, Chapter 429, Section 166 for improvements to the fairgrounds in Colfax county is extended through fiscal year 2011.

### **Chapter 341 Section 94 Laws 2007**

Section 94. ANGEL FIRE VELODROME PARK--CHANGE TO SPORTS PARK--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 114 of Section 18 of Chapter 111 of Laws 2006 to plan, design, construct and equip a velodrome park in Angel Fire in Colfax county shall not be expended for the original purpose but is changed to plan, design, construct and equip a sports park in Angel Fire.

### **Chapter 341 Section 95 Laws 2007**

Section 95. EAGLE NEST WATER RIGHTS--CHANGE TO WATER SYSTEM IMPROVEMENTS AND EXTEND TIME--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the office of the state engineer in Subsection 9 of Section 14 of Chapter 110 of Laws 2002 for Eagle Nest water rights in Colfax county shall not be expended for the original purpose but is appropriated to the department of environment to plan, design and construct water system improvements in Eagle Nest. The time of the expenditure is extended through fiscal year 2010.

### **Chapter 341 Section 96 Laws 2007**

Section 96. RATON COURTHOUSE PLANNING AND DESIGN--CHANGE PURPOSE TO PLAN, DESIGN AND CONSTRUCT A COURTHOUSE OR A DETENTION CENTER--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 104 of Section 45 of Chapter 347 of Laws 2005 to plan and design a courthouse in Raton in Colfax county shall not be expended for the original purpose but is changed to plan, design and construct a courthouse or a detention center in Raton in Colfax county.

### **Chapter 341 Section 97 Laws 2007**

Section 97. RATON LEARNING CENTER CONSTRUCTION--CHANGE TO RENOVATIONS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 72 of Section 16 of Chapter 347 of Laws 2005 to plan, design, construct and improve the learning center in Raton in Colfax county shall not be expended for the original purpose but is changed to improve and renovate the learning center in Raton.

### **Chapter 341 Section 98 Laws 2007**

Section 98. CANNON AIR FORCE BASE INFRASTRUCTURE, LAND AND WATER RIGHTS--EXPAND PURPOSE TO INCLUDE EXPANSION, RENOVATION AND EQUIPMENT--SEVERANCE TAX BONDS.--The department of finance and administration project in Subsection 2 of Section 15 of Chapter 111 of Laws 2006 to acquire land and water rights and to plan, design and construct infrastructure for Cannon air force base in Curry county may include acquiring land and water rights statewide as well as renovating, equipping and furnishing infrastructure and other improvements to be used in connection with the new mission of Cannon air force base, including the expansion and renovation of the base.

### **Chapter 341 Section 99 Laws 2007**

Section 99. CLOVIS MARTIN LUTHER KING, JR. BRIDGE--CHANGE TO WALDHAUSER AVENUE AND ZUELK ROAD IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 46 of Section 22 of Chapter 111 of Laws 2006 for the

Martin Luther King, Jr. bridge in Clovis in Curry county shall not be expended for the original purpose but is changed to plan, design and construct improvements to Waldhauser avenue from Hull street to Martin Luther King, Jr. boulevard and to Zuelk road from Wheaton street to Hull street in Curry county.

### **Chapter 341 Section 100 Laws 2007**

Section 100. CLOVIS WELLNESS AND YOUTH DEVELOPMENT CENTER--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The local government division projects in Subsection 118 of Section 18 of Chapter 111 of Laws 2006 and Subsection 230 of Section 16 of Chapter 347 of Laws 2005 to plan, design, construct, equip and furnish a wellness and youth development center in Clovis in Curry county may include recreational facilities, including baseball fields, soccer fields, indoor recreation and aquatic fitness facilities, in accordance with the Clovis wellness and youth development center plan.

### **Chapter 341 Section 101 Laws 2007**

Section 101. CLOVIS WELLNESS AND YOUTH DEVELOPMENT CENTER--EXPAND PURPOSE TO INCLUDE FIELDS AND FACILITIES--GENERAL FUND.--The local government division project in Subsection 107 of Section 45 of Chapter 347 of Laws 2005 to plan, design, construct, equip and furnish a wellness and youth development center in Clovis in Curry county may include recreational facilities, including baseball fields, soccer fields and indoor recreation and aquatic fitness facilities, in accordance with the Clovis wellness and youth development center plan.

### **Chapter 341 Section 102 Laws 2007**

Section 102. CLOVIS WELLNESS AND YOUTH DEVELOPMENT CENTER--EXPAND PURPOSE TO INCLUDE FIELDS AND FACILITIES--GENERAL FUND.--The local government division project in Subsection 231 of Section 52 of Chapter 111 of Laws 2006 to plan, design, construct, equip and furnish a wellness and youth development center in Clovis in Curry county may include recreational facilities, including baseball fields, soccer fields and indoor recreation and aquatic fitness facilities, in accordance with the Clovis wellness and youth development center plan.

### **Chapter 341 Section 103 Laws 2007**

Section 103. CLOVIS URIOSTE WELLNESS CENTER--CLARIFYING PROJECT--GENERAL FUND.--The local government division project in Subsection 109 of Section 45 of Chapter 347 of Laws 2005 is for planning, design, construction and equipping of the Urioste wellness center in Clovis in Curry county.

### **Chapter 341 Section 104 Laws 2007**

Section 104. CLOVIS MARTIN LUTHER KING, JR. BRIDGE CONSTRUCTION--CHANGE TO CLOVIS MUNICIPAL SCHOOL DISTRICT IMPROVEMENTS AND REPAIRS--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the department of transportation in Subsection 39 of Section 52 of Chapter 347 of Laws 2005 for the Martin Luther King, Jr. bridge in Clovis in Curry county shall not be expended for the original purpose but is appropriated to the public education department for improvements and repairs at Lockwood elementary school, La Casita elementary school and Gattis junior high school in the Clovis municipal school district in Curry county.

### **Chapter 341 Section 105 Laws 2007**

Section 105. DONA ANA COMMUNITY WEAVING PROGRAM INFORMATION TECHNOLOGY AND INFRASTRUCTURE--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the local government division project in Subsection 422 of Section 45 of Chapter 347 of Laws 2005 for information technology for the community weaving program in Dona Ana county is extended through fiscal year 2009.

### **Chapter 341 Section 106 Laws 2007**

Section 106. DONA ANA COUNTY INDUSTRIAL PARK ACQUISITION--CHANGE PURPOSE TO DESIGN, CONSTRUCT AND FURNISH LA MESA COMMUNITY CENTER--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 240 of Section 16 of Chapter 347 of Laws 2005 to acquire land for, develop the site for and plan, design and construct an industrial park in Dona Ana county shall not be expended for the original purpose but is changed to design, construct and furnish La Mesa community center in Dona Ana county.

### **Chapter 341 Section 107 Laws 2007**

Section 107. TORTUGAS TRAIL CONSTRUCTION--CHANGE TO PARK IMPROVEMENTS IN DONA ANA COUNTY--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 134 of Section 45 of Chapter 347 of Laws 2005 for a trail from Tortugas to A mountain shall not be expended for the original purpose but is changed to purchase and install park equipment and make improvements to parks in Dona Ana county.

### **Chapter 341 Section 108 Laws 2007**

Section 108. DONA ANA COUNTY LA CLINICA DE FAMILIA ELECTRONIC HEALTH AND ORAL RECORDS SYSTEM--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the local government division project in Subsection 143 of Section 45 of Chapter 347 of Laws 2005 for an electronic records system for la clinica de familia in Dona Ana county is extended through fiscal year 2009.

## **Chapter 341 Section 109 Laws 2007**

Section 109. CAMERAS AND EDITING EQUIPMENT FOR RURAL SCHOOLS--CHANGE TO KIT CARSON ROAD IMPROVEMENT--CHANGE AGENCY--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the public education department in Subsection 176 of Section 48 of Chapter 347 of Laws 2005 for cameras and editing equipment for rural schools statewide shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct improvements to Kit Carson road in Dona Ana county. The time of the expenditure is extended through fiscal year 2011.

## **Chapter 341 Section 110 Laws 2007**

Section 110. RODEY COMMUNITY CENTER--CHANGE TO DRAINAGE IMPROVEMENTS--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 238 of Section 16 of Chapter 347 of Laws 2005 for a community center in Rodey in Dona Ana county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design, construct and acquire rights of way for drainage improvements in Rodey in Dona Ana county.

## **Chapter 341 Section 111 Laws 2007**

Section 111. MULTIPURPOSE CENTER IN RODEY--CHANGE TO SECONDARY ACCESS ROAD IN RODEY--CHANGE AGENCY--CAPITAL PROJECTS FUND.--The unexpended balance of the appropriation to the local government division in Subsection 88 of Section 134 of Chapter 126 of Laws 2004 for a multipurpose center in Rodey in Dona Ana county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design, acquire rights of way and construct a roadway for secondary access in Rodey in Dona Ana county.

## **Chapter 341 Section 112 Laws 2007**

Section 112. SANTA TERESA PORT OF ENTRY CONSTRUCTION AND EQUIPMENT--EXTEND TIME--CAPITAL PROJECTS FUND.--The time of the expenditure for the department of public safety project in Subsection 1 of Section 52 of Chapter 110 of Laws 2002 for construction and equipping and installing a platform static scale at the Santa Teresa port of entry in Dona Ana county is extended through fiscal year 2010.

## **Chapter 341 Section 113 Laws 2007**

Section 113. CONSTRUCTION AND EXPANSION OF FIRE STATION IN TALAVERA--CHANGE TO FIRE TRUCK AND EQUIPMENT--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection

253 of Section 52 of Chapter 111 of Laws 2006 for construction and expansion of the Talavera fire station shall not be expended for the original purpose but is changed to acquire a fire truck and equipment for the Talavera fire station in Dona Ana county.

### **Chapter 341 Section 114 Laws 2007**

Section 114. BERINO MUTUAL DOMESTIC WATER SYSTEM STUDY-- EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the department of environment project in Subsection 9 of Section 15 of Chapter 110 of Laws 2002 for an engineering report and environmental assessment to improve the Berino mutual domestic water system in Dona Ana county is extended through fiscal year 2009.

### **Chapter 341 Section 115 Laws 2007**

Section 115. CHAMBERINO WATER RIGHTS PURCHASE -- EXPAND PURPOSE -- SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the office of the state engineer in Subsection 9 of Section 9 of Chapter 347 of Laws 2005 to purchase fifty acre-feet of water rights that have a priority date of 1950 or earlier not to exceed two thousand seven hundred dollars (\$2,700) per acre-foot in Chamberino in Dona Ana county shall not be expended for the original purpose but is changed to purchase up to fifty acre-feet of water rights in Chamberino.

### **Chapter 341 Section 116 Laws 2007**

Section 116. CHAPARRAL SCHOOLS ATHLETIC TRACK--CHANGE TO CHAPARRAL HIGH SCHOOL ATHLETIC FIELD HOUSE--GENERAL FUND.--The unexpended balance of the appropriation to the public education department in Subsection 256 of Section 39 of Chapter 111 of Laws 2006 to construct an athletic track at Chaparral schools in the Gadsden independent school district in Dona Ana county shall not be expended for the original purpose but is changed to construct an athletic field house for Chaparral high school in that school district.

### **Chapter 341 Section 117 Laws 2007**

Section 117. DONA ANA VILLAGE PLAZA--CHANGE TO BOXING CLUB-- CAPITAL PROJECTS FUND.--The unexpended balance of the appropriation to the local government division originally authorized in Subsection 87 of Section 134 of Chapter 126 of Laws 2004 and reauthorized in Laws 2005, Chapter 347, Section 234 for a village plaza in Dona Ana shall not be expended for the original or reauthorized purpose but is changed to construct, equip and improve a facility, including site and infrastructure improvements, for the Dona Ana activity boxing club in Dona Ana county.

### **Chapter 341 Section 118 Laws 2007**

Section 118. STONE PEDESTAL FOR STATUE IN DONA ANA COUNTY--CHANGE TO ACTIVITY BOXING CLUB--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 303 of Section 52 of Chapter 111 of Laws 2006 for purchase and installation of a stone pedestal for a statue in Dona Ana county shall not be expended for the original purpose but is changed to construct, equip and improve an activity boxing club in Dona Ana county.

### **Chapter 341 Section 119 Laws 2007**

Section 119. HATCH PUBLIC SAFETY BUILDING--CHANGE TO HATCH ADMINISTRATIVE OFFICES--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 129 of Section 18 of Chapter 111 of Laws 2006 for a multipurpose public safety building in Hatch in Dona Ana county shall not be expended for the original purpose but is changed to renovate the village administrative offices in Hatch.

### **Chapter 341 Section 120 Laws 2007**

Section 120. LAS CRUCES FOOTBALL AND BASKETBALL PROGRAM EQUIPMENT -- EXTEND TIME -- GENERAL FUND.--The time of the expenditure for the local government division project in Subsection 138 of Section 45 of Chapter 347 of Laws 2005 to purchase equipment for the football and basketball programs in Las Cruces in Dona Ana county is extended through fiscal year 2008.

### **Chapter 341 Section 121 Laws 2007**

Section 121. GADSDEN INDEPENDENT SCHOOL DISTRICT BORDER PERFORMING ARTS AND CONFERENCE CENTER--CHANGE AGENCY TO THE BOARD OF REGENTS OF NEW MEXICO STATE UNIVERSITY--GENERAL FUND.--

The unexpended balance of the appropriation to the public education department in Subsection 129 of Section 48 of Chapter 347 of Laws 2005 for a border performing arts and conference center in the Gadsden independent school district shall not be expended for the original purpose but is appropriated to the board of regents of New Mexico state university to plan, design and construct a border performing arts and conference center at New Mexico state university's satellite campus in Dona Ana county.

### **Chapter 341 Section 122 Laws 2007**

Section 122. NEW MEXICO STATE UNIVERSITY FOOTBALL PROGRAM EQUIPMENT -- EXTEND TIME -- SEVERANCE TAX BONDS.--The time of the expenditure for the board of regents of New Mexico state university project in Paragraph (3) of Subsection D of Section 21 of Chapter 347 of Laws 2005 to purchase equipment

for the New Mexico state university football program is extended through fiscal year 2008.

### **Chapter 341 Section 123 Laws 2007**

Section 123. DONA ANA COUNTY INDUSTRIAL PARK TO HOUSE A MANUFACTURING AND BUSINESS INCUBATOR--CHANGE PURPOSE TO MESQUITE FIRE DEPARTMENT PUMPER TANKER--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 418 of Section 45 of Chapter 347 of Laws 2005 to acquire land and develop a site for an industrial park to house a manufacturing and business incubator in Dona Ana county shall not be expended for the original purpose but is changed to purchase a pumper tanker for the Mesquite volunteer fire department in Dona Ana county.

### **Chapter 341 Section 124 Laws 2007**

Section 124. MESQUITE VOLUNTEER FIRE DEPARTMENT EQUIPMENT--CHANGE TO PUMPER TANKER VEHICLE--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 302 of Section 52 of Chapter 111 of Laws 2006 for equipment for the Mesquite volunteer fire department in Dona Ana county shall not be expended for the original purpose but is changed to purchase and equip a pumper tanker vehicle for that fire department.

### **Chapter 341 Section 125 Laws 2007**

Section 125. BORDER AUTHORITY FACILITY IN SANTA TERESA--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the border authority project originally authorized in Subsection 3 of Section 12 of Chapter 110 of Laws 2002 and reauthorized in Laws 2003, Chapter 429, Section 45 to construct and furnish a facility to house the border authority in Santa Teresa in Dona Ana county is extended through fiscal year 2011.

### **Chapter 341 Section 126 Laws 2007**

Section 126. SANTA TERESA HIGH SCHOOL LANDSCAPING, GAZEBOS AND SUN SHADES--CHANGE LOCATION TO SANTA TERESA MIDDLE SCHOOL--GENERAL FUND.--The location of the public education department project in Subsection 270 of Section 39 of Chapter 111 of Laws 2006 for landscaping, gazebos and sun shades at Santa Teresa high school in the Gadsden independent school district in Dona Ana county is changed to Santa Teresa middle school in that school district.

### **Chapter 341 Section 127 Laws 2007**

Section 127. SUNLAND PARK SWIMMING POOL--CHANGE TO SPORTS COMPLEX--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation

to the local government division in Subsection 89 of Section 16 of Chapter 347 of Laws 2005 for a swimming pool in Sunland Park in Dona Ana county shall not be expended for the original purpose but is changed to plan, design, construct and equip a sports complex in Sunland Park.

### **Chapter 341 Section 128 Laws 2007**

Section 128. CARLSBAD JUVENILE SHELTER AND TRANSITIONAL FACILITY--CHANGE TO EDDY COUNTY REHABILITATION FACILITY--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 319 of Section 52 of Chapter 111 of Laws 2006 to construct a juvenile shelter bed and transitional housing facility in Carlsbad in Eddy county shall not be expended for the original purpose but is changed to plan, design and construct a rehabilitation facility for that county.

### **Chapter 341 Section 129 Laws 2007**

Section 129. ARTESIA GENERAL HOSPITAL OBSTETRICS AND GYNECOLOGY DEPARTMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the local government division project in Subsection 106 of Section 16 of Chapter 347 of Laws 2005 to equip and furnish the obstetrics and gynecology department at the Artesia general hospital in Artesia in Eddy county is extended through fiscal year 2009.

### **Chapter 341 Section 130 Laws 2007**

Section 130. ARTESIA GENERAL HOSPITAL OBSTETRICS AND GYNECOLOGY EQUIP AND FURNISH--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the local government division project in Subsection 167 of Section 45 of Chapter 347 of Laws 2005 to equip and furnish the obstetrics and gynecology department at the general hospital in Artesia in Eddy county is extended through fiscal year 2009.

### **Chapter 341 Section 131 Laws 2007**

Section 131. CARLSBAD SAN JOSE SENIOR CENTER--CHANGE PURPOSE TO CARLSBAD ADULT DAYCARE AND RESPITE FACILITY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the aging and long-term services department in Subsection 3 of Section 3 of Chapter 111 of Laws 2006 for an expansion of the San Jose senior center shall not be expended for the original purpose but is changed to plan, design, construct, furnish and equip an adult daycare and respite facility in Carlsbad in Eddy county.

### **Chapter 341 Section 132 Laws 2007**

Section 132. CARLSBAD ADULT DAYCARE AND RESPITE FACILITY--EXPAND PURPOSE--GENERAL FUND.--The aging and long-term services department project in Subsection 13 of Section 26 of Chapter 111 of Laws 2006 to construct an adult daycare and respite facility in Carlsbad in Eddy county may include furnishing and equipping that facility.

### **Chapter 341 Section 133 Laws 2007**

Section 133. CARLSBAD ADULT DAYCARE RESPITE PROGRAM ADDITION--CHANGE TO CONSTRUCTION OF FACILITY--CAPITAL PROJECTS FUND.--The unexpended balance of the appropriation to the aging and long-term services department originally authorized in Subsection 4 of Section 29 of Chapter 429 of Laws 2003 and reauthorized in Laws 2004, Chapter 126, Section 50 for an addition to the Carlsbad senior center shall not be expended for the original or reauthorized purpose but is changed to plan, design, construct, equip and furnish an adult daycare and respite facility in Carlsbad in Eddy county.

### **Chapter 341 Section 134 Laws 2007**

Section 134. CARLSBAD SAN JOSE SENIOR CENTER ADDITION--EXPAND PURPOSE--CAPITAL PROJECTS FUND.--The aging and long-term services department project in Subsection 32 of Section 20 of Chapter 126 of Laws 2004 to plan, design and construct an addition to the San Jose senior center in Carlsbad in Eddy county may include planning, designing, constructing, furnishing and equipping an adult daycare and respite facility in Carlsbad.

### **Chapter 341 Section 135 Laws 2007**

Section 135. CARLSBAD ADULT RESPITE FACILITY CONSTRUCT--EXPAND PURPOSE--EXTEND TIME--GENERAL FUND.--The unexpended balance of the aging and long-term services department project originally authorized in Subsection 33 of Section 23 of Chapter 347 of Laws 2005 and reauthorized in Laws 2006, Chapter 107, Section 67 to construct, furnish and equip an adult respite facility in Carlsbad in Eddy county may include planning and design and the expenditure period is extended through fiscal year 2011.

### **Chapter 341 Section 136 Laws 2007**

Section 136. CARLSBAD ADULT RESPITE FACILITY CONSTRUCT--EXPAND PURPOSE--EXTEND TIME--CAPITAL PROJECTS FUND.--The unexpended balance of the aging and long-term services department appropriation originally authorized in Subsection 27 of Section 20 of Chapter 126 of Laws 2004 and reauthorized in Laws 2006, Chapter 107, Section 65 to construct, furnish and equip an adult respite facility in Carlsbad in Eddy county may include planning and design and the expenditure period is extended through fiscal year 2011.

## **Chapter 341 Section 137 Laws 2007**

Section 137. CARLSBAD SHOOTING RANGE--CHANGE TO LAW ENFORCEMENT COMPLEX--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 324 of Section 52 of Chapter 111 of Laws 2006 for a shooting range for the law enforcement complex in Carlsbad in Eddy county shall not be expended for the original purpose but is changed to plan, design, improve, construct and equip the law enforcement complex in Carlsbad.

## **Chapter 341 Section 138 Laws 2007**

Section 138. CARLSBAD MUNICIPAL GOLF COURSE EFFLUENT REUSE PROJECT--EXPAND TO INCLUDE PLANNING, DESIGN AND EQUIPMENT--GENERAL FUND.--The department of environment project in Subsection 41 of Section 45 of Chapter 111 of Laws 2006 for construction of the effluent reuse project at the Carlsbad municipal golf course in Carlsbad in Eddy county may include planning, design and equipment.

## **Chapter 341 Section 139 Laws 2007**

Section 139. CARLSBAD RECORDS CENTER--CHANGE TO NATIONAL CAVE AND KARST RESEARCH INSTITUTE--SEVERANCE TAX BONDS.--The unexpended balance of the local government division project in Subsection 94 of Section 16 of Chapter 347 of Laws 2005 for a records center in Carlsbad shall not be expended for the original purpose but is changed to plan, design, construct and equip the national cave and karst research institute in Carlsbad in Eddy county.

## **Chapter 341 Section 140 Laws 2007**

Section 140. CAVE AND KARST INSTITUTE FURNISH AND EQUIP--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the local government division project in Subsection 153 of Section 45 of Chapter 347 of Laws 2005 to furnish and equip the cave and karst research institute in Carlsbad in Eddy county is extended through fiscal year 2009.

## **Chapter 341 Section 141 Laws 2007**

Section 141. NATIONAL CAVE AND KARST RESEARCH INSTITUTE BUILD--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the local government division project in Subsection 132 of Section 22 of Chapter 110 of Laws 2002 to plan, design, construct and equip the national cave and karst research institute building in Carlsbad in Eddy county is extended through fiscal year 2011.

## **Chapter 341 Section 142 Laws 2007**

Section 142. GRANT COUNTY BOYS' AND GIRLS' CLUB--EXPAND TO INCLUDE PROPERTY PURCHASE--GENERAL FUND.--The local government division project in Subsection 186 of Section 45 of Chapter 347 of Laws 2005 to plan, design, construct, equip and furnish a boys' and girls' club in Grant county may include the purchase of property.

### **Chapter 341 Section 143 Laws 2007**

Section 143. GILA PLAYGROUND CONSTRUCTION--CHANGE TO GRANT COUNTY CLIFF BALL PARK CONSTRUCTION--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 430 of Section 45 of Chapter 347 of Laws 2005 for a playground in Grant county shall not be expended for the original purpose but is changed to plan, design, construct, equip and furnish a ball park in Cliff in Grant county.

### **Chapter 341 Section 144 Laws 2007**

Section 144. LORDSBURG SHAKESPEARE GHOST TOWN STATE PARK--CHANGE TO CITY MUSEUM IMPROVEMENTS AND PARK DEVELOPMENT--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the energy, minerals and natural resources department in Subsection 6 of Section 33 of Chapter 347 of Laws 2005 for expanding and improving the Shakespeare Ghost Town state park in Lordsburg in Hidalgo county shall not be expended for the original purpose but is appropriated to the local government division to plan, design, construct and equip improvements to the city museum and to develop a park in Lordsburg's downtown area and airport.

### **Chapter 341 Section 145 Laws 2007**

Section 145. LORDSBURG SHAKESPEARE GHOST TOWN STATE PARK--CHANGE TO CITY MUSEUM IMPROVEMENTS AND PARK DEVELOPMENT--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the energy, minerals and natural resources department in Laws 2005, Chapter 347, Section 11 for expanding and improving the Shakespeare Ghost Town state park in Lordsburg in Hidalgo county shall not be expended for the original purpose but is appropriated to the local government division to plan, design, construct and equip improvements to the city museum and to develop a park in Lordsburg's downtown area and airport.

### **Chapter 341 Section 146 Laws 2007**

Section 146. JAL WATER STORAGE TANK CONSTRUCT--CHANGE TO WASTEWATER TREATMENT PLANT UPGRADES--GENERAL FUND.--The unexpended balance of the appropriation to the department of environment in Subsection 24 of Section 36 of Chapter 347 of Laws 2005 for construction of a water storage tank in Jal in Lea county shall not be expended for the original purpose but is

changed to plan, design, equip and construct improvements to the wastewater treatment plant in that county.

### **Chapter 341 Section 147 Laws 2007**

Section 147. LOVINGTON HIGH SCHOOL GYMNASIUM FLOOR--CHANGE TO BLEACHERS--GENERAL FUND.--The unexpended balance of the appropriation to the public education department in Subsection 288 of Section 39 of Chapter 111 of Laws 2006 to resurface the gymnasium floor at Lovington high school in the Lovington municipal school district in Lea county shall not be expended for the original purpose but is changed to purchase and install bleachers at that school.

### **Chapter 341 Section 148 Laws 2007**

Section 148. LOVINGTON NOR-LEA GENERAL HOSPITAL CARDIAC REHABILITATION UNIT--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the local government division project in Subsection 199 of Section 45 of Chapter 347 of Laws 2005 for equipment for a cardiac rehabilitation unit at Nor-Lea general hospital in Lovington in Lea county is extended through fiscal year 2009.

### **Chapter 341 Section 149 Laws 2007**

Section 149. LOVINGTON MUNICIPAL SCHOOL DISTRICT STADIUM BLEACHERS--CHANGE TO LOVINGTON HIGH SCHOOL ANNEX GYM BLEACHERS INSTALL--GENERAL FUND.--The unexpended balance of the appropriation to the public education department in Subsection 287 of Section 39 of Chapter 111 of Laws 2006 to install bleachers in the football stadium in the Lovington municipal school district in Lea county shall not be expended for the original purpose but is changed to plan, design, construct, purchase and install bleachers in the high school gymnasium annex in that school district.

### **Chapter 341 Section 150 Laws 2007**

Section 150. ROSWELL POLICE DEPARTMENT EQUIPMENT AND INFORMATION TECHNOLOGY--CHANGE TO LINCOLN COUNTY NEST DOMESTIC VIOLENCE SHELTER--EXTEND TIME--CAPITAL PROJECTS FUND.-- The unexpended balance of the appropriation to the local government division in Subsection 13 of Section 134 of Chapter 126 of Laws 2004 for equipment and information technology for the police department in Roswell in Chaves county shall not be expended for the original purpose but is changed to plan, design, construct, furnish and equip improvements, including land acquisition, for the Nest domestic violence shelter in Lincoln county. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 151 Laws 2007**

Section 151. NEW MEXICO MILITARY INSTITUTE FIRST TEE PROGRAM LEARNING CENTER--CHANGE AGENCY AND PURPOSE TO THE NEST DOMESTIC VIOLENCE SHELTER--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the board of regents of New Mexico military institute in Paragraph (5) of Subsection D of Section 24 of Chapter 111 of Laws 2006 for a learning center for the first tee program of the Pecos valley at New Mexico military institute shall not be expended for the original purpose but is appropriated to the local government division to plan, design, construct, furnish and equip improvements, including land acquisition, to the Nest domestic violence shelter in Lincoln county.

### **Chapter 341 Section 152 Laws 2007**

Section 152. CAPITAN COMMUNITY CENTER--EXPAND TO INCLUDE IMPROVEMENTS AND CLARIFY LOCATION--CAPITAL PROJECTS FUND.--The local government division project in Subsection 10 of Section 134 of Chapter 126 of Laws 2004 to plan, design and construct a community center in Capitan in Lincoln county may include renovating and improving the old railroad depot for use as a community center in Capitan.

### **Chapter 341 Section 153 Laws 2007**

Section 153. DEMING WASTEWATER PLANT CONSTRUCTION--CHANGE TO DEMING WATER SYSTEM IMPROVEMENTS--GENERAL FUND.--The unexpended balance of the appropriation to the department of environment in Subsection 76 of Section 45 of Chapter 111 of Laws 2006 for the wastewater plant in Deming in Luna county shall not be expended for the original purpose but is changed to plan, design and construct water system improvements in Deming.

### **Chapter 341 Section 154 Laws 2007**

Section 154. DEMING NORTH INDUSTRIAL PARK RAILROAD SWITCHES--CHANGE TO WATER SYSTEM IMPROVEMENTS--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the department of transportation in Subsection 155 of Section 52 of Chapter 347 of Laws 2005 for railroad siding switches in the north industrial park in Deming shall not be expended for the original purpose but is appropriated to the department of environment to plan, design, construct and equip water system improvements in Deming in Luna county.

### **Chapter 341 Section 155 Laws 2007**

Section 155. COYOTE CANYON CHAPTER ROAD GRADER--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 48 of Section 15 of Chapter 347 of Laws 2005 for a road grader for the Coyote Canyon chapter of the Navajo Nation in McKinley county is extended through fiscal year 2009.

## **Chapter 341 Section 156 Laws 2007**

Section 156. GALLUP-NAVAJO WATER SUPPLY PROJECT--CHANGE TO MCKINLEY COUNTY FIRE AND RESCUE DEPARTMENT UNIT--EXTEND TIME--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the office of the state engineer in Subsection 2 of Section 14 of Chapter 110 of Laws 2002 for the Gallup-Navajo water supply project shall not be expended for the original purpose but is appropriated to the local government division to purchase a haz-mat unit for the McKinley county fire and rescue department in McKinley county. The time of the expenditure is extended through fiscal year 2009.

## **Chapter 341 Section 157 Laws 2007**

Section 157. MCKINLEY COUNTY MULTIPURPOSE INDOOR ARENA--CHANGE TO JUVENILE DETENTION COMPLEX--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 201 of Section 18 of Chapter 111 of Laws 2006 for a multipurpose indoor arena in McKinley county shall not be expended for the original purpose but is changed to construct a juvenile detention complex in McKinley county.

## **Chapter 341 Section 158 Laws 2007**

Section 158. MCKINLEY COUNTY MULTIPURPOSE INDOOR ARENA--CHANGE TO WASTEWATER IMPROVEMENTS FOR THE WILLIAMS ACRES WATER AND SANITATION DISTRICT--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 414 of Section 52 of Chapter 111 of Laws 2006 to plan, design and construct a multipurpose indoor arena in McKinley county shall not be expended for the original purpose but is appropriated to the department of environment to construct wastewater system improvements for the Williams Acres water and sanitation district in McKinley county.

## **Chapter 341 Section 159 Laws 2007**

Section 159. NAVAJO CHAPTERS LIBRARY TECHNOLOGY ADDITIONS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 52 of Section 20 of Chapter 110 of Laws 2002 for library technology additions to facilities in Navajo chapters in McKinley county is extended through fiscal year 2011.

## **Chapter 341 Section 160 Laws 2007**

Section 160. RAMAH DISTRICT COURT DRUG COURT PROGRAM MODULAR BUILDING--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 2 of Section 20 of Chapter 110 of

Laws 2002 for a modular building for the Ramah district court drug court program in McKinley county is extended through fiscal year 2011.

### **Chapter 341 Section 161 Laws 2007**

Section 161. TSE BONITO BRIDGE ON HIGHWAY 264 IN MCKINLEY COUNTY--CHANGE TO NEW BRIDGE ON ALMA DRIVE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 66 of Section 22 of Chapter 111 of Laws 2006 to plan, design and construct the Tse Bonito washout bridge on New Mexico highway 264 in McKinley county shall not be expended for the original purpose but is changed to plan, design and construct a new bridge and roadway on Alma drive in Tse Bonito in McKinley county.

### **Chapter 341 Section 162 Laws 2007**

Section 162. BREAD SPRINGS CHAPTER FACILITY AND PARKING LOT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 5 of Section 20 of Chapter 110 of Laws 2002 for a facility and paved parking lot with handicapped accessibility at the Bread Springs chapter of the Navajo Nation in McKinley county is extended through fiscal year 2008.

### **Chapter 341 Section 163 Laws 2007**

Section 163. CHICHILTAH CHAPTER FIRE STATION CONSTRUCTION--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The Indian affairs department project in Subsection 21 of Section 16 of Chapter 111 of Laws 2006 to construct a fire station for the Chichiltah chapter of the Navajo Nation in McKinley county may include planning and design.

### **Chapter 341 Section 164 Laws 2007**

Section 164. CHURCH ROCK CHAPTER FACILITIES IN MCKINLEY COUNTY--CHANGE TO STUDY, PLAN AND CONSTRUCT FLOOD CONTROL MITIGATION--CAPITAL PROJECTS FUND.--The unexpended balance of the Indian affairs department appropriation originally authorized in Subsection 11 of Section 33 of Chapter 126 of Laws 2004 and reauthorized in Laws 2005, Chapter 347, Section 119 to plan, design and prepare Church Rock chapter facility sites in McKinley county shall not be expended for the original or reauthorized purpose but is changed to study, plan and construct a flood control mitigation project for the Church Rock chapter of the Navajo Nation in McKinley County.

### **Chapter 341 Section 165 Laws 2007**

Section 165. CROWNPOINT YOUTH COMMUNITY BASEBALL FIELD--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 11 of Section 20 of Chapter 110 of Laws 2002 for a youth community baseball field for the Crownpoint community in McKinley county is extended through fiscal year 2011.

### **Chapter 341 Section 166 Laws 2007**

Section 166. GALLUP PUBLIC SAFETY BUILDING--CHANGE PURPOSE TO JOINT PUBLIC SAFETY BUILDING--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 421 of Section 52 of Chapter 111 of Laws 2006 for a public safety building in Gallup in McKinley county shall not be expended for the original purpose but is changed to purchase land for and plan, design and construct a joint public safety building in Gallup in McKinley county.

### **Chapter 341 Section 167 Laws 2007**

Section 167. MCKINLEY COUNTY SHERIFF'S DEPARTMENT BUILDING--CHANGE PURPOSE TO JOINT PUBLIC SAFETY BUILDING--CHANGE LOCATION--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 195 of Section 18 of Chapter 111 of Laws 2006 for the construction of a sheriff's department building in McKinley county shall not be expended for the original purpose but is changed to acquire land for and plan, design and construct a joint public safety building in Gallup in McKinley county.

### **Chapter 341 Section 168 Laws 2007**

Section 168. MCKINLEY COUNTY MUNICIPAL COURT FACILITY--CHANGE PURPOSE TO JOINT PUBLIC SAFETY BUILDING--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 199 of Section 18 of Chapter 111 of Laws 2006 for the construction of a police facility, including facilities for a municipal court, in Gallup in McKinley county shall not be expended for its original purpose but is changed to acquire land for and plan, design and construct a joint public safety building in Gallup.

### **Chapter 341 Section 169 Laws 2007**

Section 169. MCKINLEY COUNTY POLICE FACILITY--CHANGE PURPOSE TO JOINT PUBLIC SAFETY BUILDING--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 206 of Section 18 of Chapter 111 of Laws 2006 for construction of a police facility in Gallup in McKinley county shall not be expended for its original purpose but is changed to acquire land for and plan, design and construct a joint public safety building in Gallup in McKinley county.

## **Chapter 341 Section 170 Laws 2007**

Section 170. LITTLEWATER CHAPTER OF THE NAVAJO NATION HEAD START FACILITY--EXPAND PURPOSE TO INCLUDE MODULAR BUILDING--GENERAL FUND.--The Indian affairs department project in Subsection 64 of Section 50 of Chapter 111 of Laws 2006 to plan, design, construct and equip a head start facility for the Littlewater chapter of the Navajo Nation in McKinley county may include the purchase and installation of a modular building.

## **Chapter 341 Section 171 Laws 2007**

Section 171. LITTLEWATER CHAPTER HEAD START FACILITY--EXPAND PURPOSE TO INCLUDE PURCHASE AND INSTALLATION OF MODULAR BUILDING--EXTEND TIME--SEVERANCE TAX BONDS.--The Indian affairs department project in Subsection 7 of Section 20 of Chapter 110 of Laws 2002 for a head start facility in the Littlewater chapter of the Navajo Nation in McKinley county may include planning, purchase and installation of a modular building for the head start program. The time of the expenditure is extended through fiscal year 2011.

## **Chapter 341 Section 172 Laws 2007**

Section 172. MEXICAN SPRINGS BUILDING RENOVATE--CHANGE TO POWERLINE EXTENSIONS AT CHAPTER--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the Indian affairs department project originally authorized in Subsection B of Section 18 of Chapter 118 of Laws 1998 and reauthorized in Laws 2002, Chapter 99, Section 56 and again in Laws 2004, Chapter 126, Section 97 to renovate a building in Mexican Springs shall not be expended for the original or reauthorized purpose but is changed to plan, design and construct powerline extensions in the Mexican Springs chapter of the Navajo Nation in McKinley county. The time of the expenditure is extended through fiscal year 2011.

## **Chapter 341 Section 173 Laws 2007**

Section 173. MEXICAN SPRINGS FOOD DISTRIBUTION CENTER VEHICLES--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the Indian affairs department project in Subsection 33 of Section 43 of Chapter 347 of Laws 2005 for the purchase of trucks and trailers for the Mexican Springs food distribution center in the Navajo Nation in McKinley county is extended through fiscal year 2009.

## **Chapter 341 Section 174 Laws 2007**

Section 174. MEXICAN SPRINGS CHAPTER MULTIPURPOSE FACILITIES--EXPAND PURPOSE--CAPITAL PROJECTS FUND.--The Indian affairs department project originally authorized in Subsection 21 of Section 33 of Chapter 126 of Laws 2004 and reauthorized in Laws 2006, Chapter 107, Section 133 to plan, design and

construct multipurpose facilities for the Mexican Springs chapter of the Navajo Nation in McKinley county may include renovations, furnishing and equipment.

### **Chapter 341 Section 175 Laws 2007**

Section 175. PINEDALE CHAPTER COMPUTER LABORATORY EQUIPMENT--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the Indian affairs department project in Subsection 76 of Section 43 of Chapter 347 of Laws 2005 for computer and laboratory equipment at the Pinedale chapter of the Navajo Nation is extended through fiscal year 2009.

### **Chapter 341 Section 176 Laws 2007**

Section 176. PINEDALE COMMUNITY CHAPTER PRESCHOOL BUILDING--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 48 of Section 20 of Chapter 110 of Laws 2002 to construct and equip a preschool building for the Pinedale community chapter of the Navajo Nation in Church Rock in McKinley county is extended through fiscal year 2011.

### **Chapter 341 Section 177 Laws 2007**

Section 177. RED LAKE CHAPTER STEEL OFFICE BUILDING COMPLEX--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project originally authorized in Subsection 45 of Section 20 of Chapter 110 of Laws 2002 and reauthorized in Laws 2003, Chapter 429, Section 202 for a steel office building complex for the Red Lake chapter of the Navajo Nation in McKinley county is extended through fiscal year 2011.

### **Chapter 341 Section 178 Laws 2007**

Section 178. RED LAKE OFFICE BUILDING COMPLEX IN MCKINLEY COUNTY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project originally authorized in Subsection 13 of Section 20 of Chapter 110 of Laws 2002 and reauthorized in Laws 2003, Chapter 429, Section 94 to plan, design and construct a steel office building complex, including utility connections, fencing and site preparation, for the Red Lake chapter of the Navajo Nation in McKinley county is extended through fiscal year 2011.

### **Chapter 341 Section 179 Laws 2007**

Section 179. RINCON MARQUISE RADIO ANTENNA--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsections 9 and 53 of Section 20 of Chapter 110 of Laws 2002 for a microwave radio antenna for emergency communications in Rincon Marquise in McKinley county is extended through fiscal year 2009.

## **Chapter 341 Section 180 Laws 2007**

Section 180. ROCK SPRINGS CHAPTER COMMUNICATIONS INFRASTRUCTURE -- EXTEND TIME -- SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project originally authorized in Subsection V of Section 12 of Chapter 7 of Laws 1998 and reauthorized in Laws 2002, Chapter 99, Section 48 to design and install telephone lines and other communications infrastructure at the Rock Springs chapter of the Navajo Nation in McKinley county is extended through fiscal year 2011.

## **Chapter 341 Section 181 Laws 2007**

Section 181. ROCK SPRINGS CHAPTER LAW ENFORCEMENT POLICE SUBSTATION -- EXTEND TIME -- SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 40 of Section 20 of Chapter 110 of Laws 2002 for a law enforcement police substation in the Rock Springs chapter of the Navajo Nation in McKinley county is extended through fiscal year 2011.

## **Chapter 341 Section 182 Laws 2007**

Section 182. ROCK SPRINGS COMMUNITY CENTER PARKING LOT-- EXPAND TO INCLUDE CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The Indian affairs department project in Subsection 6 of Section 20 of Chapter 110 of Laws 2002 for a parking lot at the Rock Springs chapter of the Navajo Nation in McKinley county may include constructing improvements and expansion of the parking area. The time of the expenditure is extended through fiscal year 2011.

## **Chapter 341 Section 183 Laws 2007**

Section 183. CROWNPOINT INDIAN HEALTH SERVICE HOSPITAL SCANNER AND HOUSING--CHANGE TO THOREAU HEALTH STATION IMPROVEMENTS AND EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 46 of Section 15 of Chapter 347 of Laws 2005 for a scanner and scanner housing for the Crownpoint Indian health service hospital in Crownpoint in McKinley county shall not be expended for the original purpose but is changed to plan, design, construct, purchase and install improvements, furnishings and equipment, including information technology and improvements to the parking lot, at the Thoreau health station in Thoreau in McKinley county. The time of the expenditure is extended through fiscal year 2011.

## **Chapter 341 Section 184 Laws 2007**

Section 184. CROWNPOINT INDIAN HEALTH SERVICE HOSPITAL SCANNER AND HOUSING--CHANGE TO THOREAU HEALTH STATION IMPROVEMENTS AND EQUIPMENT--EXTEND TIME--GENERAL FUND.--The unexpended balance of the

appropriation to the Indian affairs department in Subsection 13 of Section 43 of Chapter 347 of Laws 2005 for a scanner and scanner housing for the Crownpoint Indian health service hospital in Crownpoint in McKinley county shall not be expended for the original purpose but is changed to plan, design, construct, purchase and install improvements, furnishings and equipment, including information technology and improvements to the parking lot, at the Thoreau health station in Thoreau in McKinley county. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 185 Laws 2007**

Section 185. REGION 3 HOUSING AUTHORITY SENIOR HOUSING -- CHANGE TO THOREAU SENIOR CENTER IMPROVEMENTS -- CHANGE AGENCY -- EXTEND TIME -- SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 438 of Section 22 of Chapter 110 of Laws 2002 for housing for senior citizens for the region 3 housing authority in McKinley county shall not be expended for the original purpose but is appropriated to the aging and long-term services department to plan, design and construct improvements to the senior center in Thoreau. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 186 Laws 2007**

Section 186. GALLUP DISABLED PROGRAM VEHICLES--CHANGE TO THOREAU SENIOR CENTER IMPROVEMENTS--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 443 of Section 45 of Chapter 347 of Laws 2005 to purchase vehicles for use by community-based programs for the disabled in Gallup in McKinley county shall not be expended for the original purpose but is appropriated to the aging and long-term services department to plan, design and construct improvements to the senior center in Thoreau in McKinley county.

### **Chapter 341 Section 187 Laws 2007**

Section 187. THOREAU CHAPTER ROAD GRADER PURCHASE--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the Indian affairs department project in Subsection 15 of Section 43 of Chapter 347 of Laws 2005 to purchase a road grader for the Thoreau chapter of the Navajo Nation in McKinley county is extended through fiscal year 2009.

### **Chapter 341 Section 188 Laws 2007**

Section 188. THOREAU CHAPTER HOUSE PARKING LOT PAVING--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The Indian affairs department project in Subsection 12 of Section 20 of Chapter 110 of Laws 2002 to pave a parking lot at the Thoreau chapter house of the Navajo Nation in McKinley county may

include planning, design and construction. The time of expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 189 Laws 2007**

Section 189. WHITE HORSE LAKE CHAPTER HEAD START BUILDING KITCHEN ADDITION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 8 of Section 20 of Chapter 110 of Laws 2002 to design and construct a kitchen addition for the head start modular building in the White Horse Lake chapter of the Navajo Nation in McKinley county is extended through fiscal year 2011.

### **Chapter 341 Section 190 Laws 2007**

Section 190. ZUNI PUEBLO HEAD START SEWER LINE CONSTRUCT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 44 of Section 20 of Chapter 110 of Laws 2002 for a sewer line for the head start facility at the Pueblo of Zuni in McKinley county is extended through fiscal year 2011.

### **Chapter 341 Section 191 Laws 2007**

Section 191. ZUNI PUEBLO HEALTH COMPLEX--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 50 of Section 20 of Chapter 110 of Laws 2002 for engineering, demolition and site preparation for the community health modular complex in the Pueblo of Zuni in McKinley county is extended through fiscal year 2011.

### **Chapter 341 Section 192 Laws 2007**

Section 192. PUEBLO OF ZUNI VISITORS' CENTER IN MCKINLEY COUNTY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project originally authorized in Subsection 3 of Section 20 of Chapter 110 of Laws 2002 and reauthorized in Laws 2003, Chapter 429, Section 90 to plan, design, prepare the site and construct a visitors' center at the Pueblo of Zuni in McKinley county is extended through fiscal year 2011.

### **Chapter 341 Section 193 Laws 2007**

Section 193. ZUNI PUEBLO VISITORS' CENTER CONSTRUCT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 46 of Section 20 of Chapter 110 of Laws 2002 for construction of a visitors' center at the Pueblo of Zuni in McKinley county is extended through fiscal year 2011.

## **Chapter 341 Section 194 Laws 2007**

Section 194. ZUNI PUEBLO WATER AND SEWER UTILITIES EXTEND--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 49 of Section 20 of Chapter 110 of Laws 2002 to extend water and sewer utilities to the correctional facility at the Pueblo of Zuni in McKinley county is extended through fiscal year 2011.

## **Chapter 341 Section 195 Laws 2007**

Section 195. ZUNI PUEBLO WASTEWATER TREATMENT STUDY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the department of environment project in Subsection 73 of Section 15 of Chapter 110 of Laws 2002 for a study of the wastewater treatment system in the Pueblo of Zuni in McKinley county is extended through fiscal year 2009.

## **Chapter 341 Section 196 Laws 2007**

Section 196. EL CARMEN ROAD IMPROVEMENTS--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The department of transportation project in Subsection 91 of Section 20 of Chapter 347 of Laws 2005 for improvements to El Carmen road in Mora county may include chip seal.

## **Chapter 341 Section 197 Laws 2007**

Section 197. LEDOUX, MONTE APLANDO AND EL CARMEN FIRE DEPARTMENT EQUIPMENT--CHANGE TO VEHICLE PURCHASE--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 436 of Section 52 of Chapter 111 of Laws 2006 for the purchase of fire protection equipment for the Ledoux, Monte Aplando and El Carmen volunteer fire department shall not be expended for the original purpose but is changed to purchase a vehicle for that fire department.

## **Chapter 341 Section 198 Laws 2007**

Section 198. MORA COUNTY FIRE DEPARTMENT AMBULANCE SHELTER CONSTRUCT--EXPAND PURPOSE--GENERAL FUND.--The local government division project in Subsection 434 of Section 52 of Chapter 111 of Laws 2006 for a facility to house an ambulance for the fire department in Mora county may include equipping and furnishing that facility.

## **Chapter 341 Section 199 Laws 2007**

Section 199. MORA COUNTY RECREATIONAL PARK--EXPAND PURPOSE TO INCLUDE LAND FOR COUNTY COMPLEX--SEVERANCE TAX BONDS.--The local

government division project originally authorized in Subsection 125 of Section 16 of Chapter 347 of Laws 2005 and reauthorized in Laws 2006, Chapter 107, Section 108 to plan, design, construct, equip and furnish a park and purchase land for the county recreational park in Mora county may also include land acquisition for a county complex.

### **Chapter 341 Section 200 Laws 2007**

Section 200. RIO GRANDE ALCOHOLISM TREATMENT FACILITY--CHANGE TO MORA COUNTY COMPLEX--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 219 of Section 45 of Chapter 347 of Laws 2005 for improvements to the Rio Grande alcoholism treatment facility in Mora shall not be expended for the original purpose but is changed to purchase land for and plan, design, purchase, install, equip and furnish the Mora county complex or recreational park.

### **Chapter 341 Section 201 Laws 2007**

Section 201. MORA COUNTY VOTING MACHINES PURCHASE--EXPAND PURPOSE--GENERAL FUND.--The local government division project in Subsection 426 of Section 52 of Chapter 111 of Laws 2006 for the purchase of voting machines in Mora county may also include equipment, supplies and a trailer for the clerk's office in Mora county.

### **Chapter 341 Section 202 Laws 2007**

Section 202. GUADALUPITA COMMUNITY CENTER CONSTRUCTION--EXPAND PURPOSE TO INCLUDE LAND ACQUISITION--GENERAL FUND.--The local government division project in Subsection 216 of Section 45 of Chapter 347 of Laws 2005 to plan, design and construct a community center in Guadalupita in Mora county may include the purchase of land.

### **Chapter 341 Section 203 Laws 2007**

Section 203. MORA SANGRE DE CRISTO COMPLEX--CHANGE TO MORA LAND GRANT ECONOMIC DEVELOPMENT FACILITY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 208 of Section 18 of Chapter 111 of Laws 2006 for the Sangre de Cristo complex in Mora shall not be expended for the original purpose but is changed to purchase property, plan, design, construct, furnish and equip a community economic development facility for the Santa Gertrudis de lo de Mora land grant in Mora in Mora county. This appropriation is contingent upon the community land grant-merced complying with the provisions of Chapter 49, Article 1 NMSA 1978 and the Audit Act.

### **Chapter 341 Section 204 Laws 2007**

Section 204. MORA MAINTENANCE GARAGE AND BUS BARN--CHANGE TO CAPITAL IMPROVEMENTS FOR MORA INDEPENDENT SCHOOLS--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 450 of Section 45 of Chapter 347 of Laws 2005 for a maintenance garage and bus barn in Mora in Mora county shall not be expended for the original purpose but is appropriated to the public education department to plan, design and construct capital improvements for the Mora independent school district in Mora county.

### **Chapter 341 Section 205 Laws 2007**

Section 205. MORA-COLFAX HEAD START PROGRAM CAPITAL IMPROVEMENTS--CHANGE TO MORA INDEPENDENT SCHOOL DISTRICT HEAD START IMPROVEMENTS--CHANGE AGENCY--CAPITAL PROJECTS FUND.--The unexpended balance of the appropriation to the local government division originally authorized in Subsection 99 of Section 134 of Chapter 126 of Laws 2004 and reauthorized in Laws 2006, Chapter 107, Section 107 to plan, design and construct capital improvements for the Mora-Colfax head start program in Mora county shall not be expended for the original or reauthorized purpose but is appropriated to the public education department to plan, design and construct capital improvements for the Mora independent school district's head start program in Mora county.

### **Chapter 341 Section 206 Laws 2007**

Section 206. THIRTEENTH JUDICIAL DISTRICT ATTORNEY VEHICLES--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the thirteenth judicial district project in Subsection B of Section 6 of Chapter 347 of Laws 2005 to purchase vehicles for the thirteenth judicial district attorney in Cibola, Sandoval and Valencia counties is extended through fiscal year 2008.

### **Chapter 341 Section 207 Laws 2007**

Section 207. CHIMAYO CHILE PROCESSING PLANT--CHANGE TO CHAMA SEWER TREATMENT PLANT, GREATER CHIMAYO COMMUNITY WATER SYSTEM, MESA VISTA CONSOLIDATED SCHOOL DISTRICT TRACK AND FIELD AND POJOAQUE MIDDLE SCHOOL CAMPUS WATER SYSTEM--CHANGE AGENCIES--GENERAL FUND.--The unexpended balance of the appropriation to the economic development department in Subsection 2 of Section 38 of Chapter 111 of Laws 2006 for a chile processing plant near Chimayo shall not be expended for the original purpose but is appropriated to the following agencies in the following amounts for the following purposes:

A. to the department of environment, twenty-five thousand dollars (\$25,000) to plan, design, construct and equip a sewer treatment plant in Chama in Rio Arriba county;

B. to the department of environment, forty-six thousand dollars (\$46,000) to plan, design and construct a community water system, including water transmission and distribution lines, for the greater Chimayo mutual domestic water consumers association in Chimayo in Rio Arriba county;

C. to the public education department, forty-six thousand dollars (\$46,000) to design and construct a track and field and a soccer complex at the campus in Ojo Caliente in the Mesa Vista consolidated school district in Taos county;

D. to the public education department, thirty thousand dollars (\$30,000) to design, renovate and reconstruct phase 1 of the domestic water system and fire flow protection lines on the Pojoaque middle school campus in the Pojoaque Valley public school district in Santa Fe county; and

E. to the department of transportation, two hundred five thousand dollars (\$205,000) to pave Juan Tomas road in Torrance county and Barton road in Santa Fe county to provide economic development opportunities in those counties.

### **Chapter 341 Section 208 Laws 2007**

Section 208. LAS CRUCES AND LAS VEGAS WORKERS' COMPENSATION ADMINISTRATION BUILDINGS--EXTEND TIME--WORKERS' COMPENSATION ADMINISTRATION FUND.--The time of the expenditure for the capital program fund project originally authorized in Laws 2002, Chapter 110, Section 49 and reauthorized in Laws 2005, Chapter 347, Section 266 for office buildings in Las Cruces and Las Vegas for the workers' compensation administration is extended through fiscal year 2010.

### **Chapter 341 Section 209 Laws 2007**

Section 209. NEW MEXICO HIGHLANDS UNIVERSITY MIGRANT PROGRAM INFORMATION TECHNOLOGY--CHANGE TO MORA, LAS VEGAS AND WAGON MOUND SCHOOL DISTRICTS INFORMATION TECHNOLOGY AND PHONE SYSTEM--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the board of regents of New Mexico highlands university in Paragraph (10) of Subsection B of Section 63 of Chapter 111 of Laws 2006 for information technology at New Mexico highlands university shall not be expended for the original purpose but is appropriated to the public education department to purchase and install an automated phone system and information technology, including related equipment and furniture, for the Mora independent school district, the west Las Vegas public school district, the Wagon Mound public school district and the Las Vegas city public school district in Mora and San Miguel counties.

### **Chapter 341 Section 210 Laws 2007**

Section 210. SANTA CRUZ DE LA CANADA COMMUNITY LAND GRANT LAND PURCHASE--CHANGE TO CHIMAYO COMMUNITY CENTER--GENERAL FUND.--

The unexpended balance of the appropriation to the local government division in Subsection 451 of Section 45 of Chapter 347 of Laws 2005 to purchase land for the Santa Cruz de la Canada community land grant in Rio Arriba county shall not be expended for the original purpose but is changed to design and construct a community center in Chimayo in Santa Fe and Rio Arriba counties.

### **Chapter 341 Section 211 Laws 2007**

Section 211. SANTA CRUZ DE LA CANADA LAND GRANT ECONOMIC DEVELOPMENT FACILITY--CHANGE TO CHIMAYO COMMUNITY CENTER--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 481 of Section 52 of Chapter 111 of Laws 2006 for an economic development facility for the Santa Cruz de la Canada community land grant in Rio Arriba county shall not be expended for the original purpose but is changed to design and construct a community center in Chimayo in Santa Fe and Rio Arriba counties.

### **Chapter 341 Section 212 Laws 2007**

Section 212. MESA VISTA CONSOLIDATED SCHOOL DISTRICT FOOTBALL FIELD AND PROGRAM--CHANGE PURPOSE TO IMPROVE, RENOVATE, EXPAND AND EQUIP THE TRACK AND FIELD--GENERAL FUND.--The unexpended balance of the appropriation to the public education department in Subsection 309 of Section 39 of Chapter 111 of Laws 2006 to plan, design and construct renovations to the football field and equip the football program with sports equipment in the Mesa Vista consolidated school district in Rio Arriba and Taos counties shall not be expended for the original purpose but is changed to improve, renovate, expand and equip the track and field in the Mesa Vista consolidated school district.

### **Chapter 341 Section 213 Laws 2007**

Section 213. ALAMOGORDO HIGH SCHOOL TENNIS COMPLEX--CHANGE LOCATION TO CITY OF ALAMOGORDO--SEVERANCE TAX BONDS.--The location of the local government division project in Subsection 217 of Section 18 of Chapter 111 of Laws 2006 for a tennis complex in the Alamogordo public school district in Otero county is changed to the city of Alamogordo.

### **Chapter 341 Section 214 Laws 2007**

Section 214. TULAROSA WASTEWATER RESERVOIRS--CHANGE PURPOSE TO IMPROVEMENTS TO THE WASTEWATER SYSTEM--GENERAL FUND.--The unexpended balance of the appropriation to the department of environment in Subsection 98 of Section 45 of Chapter 111 of Laws 2006 to plan, design and construct wastewater reservoirs in Tularosa in Otero county shall not be expended for the original purpose but is changed to plan, design and construct improvements to the wastewater system.

## **Chapter 341 Section 215 Laws 2007**

Section 215. TULAROSA PORTABLE WATER STORAGE TANK--CHANGE PURPOSE TO WATER WELL--CAPITAL PROJECTS FUND.--The unexpended balance of the appropriation to the department of environment in Subsection 8 of Section 132 of Chapter 126 of Laws 2004 to purchase and install a portable water storage tank in Tularosa in Otero county shall not be expended for the original purpose but is changed to purchase, rehabilitate, drill and equip a new water well for that village.

## **Chapter 341 Section 216 Laws 2007**

Section 216. TULAROSA SCHOOL DISTRICT BASKETBALL PROGRAM EQUIPMENT--EXTEND TIME--CAPITAL PROJECTS FUND.--The time of the expenditure for the public education department project in Subsection 180 of Section 37 of Chapter 126 of Laws 2004 for Tularosa municipal school district basketball program equipment is extended through fiscal year 2008.

## **Chapter 341 Section 217 Laws 2007**

Section 217. TUCUMCARI RAIL SPUR--CHANGE TO INDUSTRIAL PARK IMPROVEMENTS--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 33 of Section 20 of Chapter 347 of Laws 2005 for a rail spur in Tatum county shall not be expended for the original purpose but is appropriated to the local government division to plan, design, construct, acquire, upgrade, equip and furnish capital improvements, including utilities infrastructure, at the industrial park and vicinity in Tatum county.

## **Chapter 341 Section 218 Laws 2007**

Section 218. CANJILON MUTUAL DOMESTIC WATER CONSUMERS AND MUTUAL SEWAGE WORKS ASSOCIATION WATER LINE EXTENSIONS--CHANGE TO WATER SUPPLY WELL--GENERAL FUND.--The unexpended balance of the appropriation to the department of environment in Subsection 108 of Section 45 of Chapter 111 of Laws 2006 for water line extensions for the Canjilon mutual domestic water consumers and mutual sewage works association in Rio Arriba county shall not be expended for the original purpose but is changed to design, construct and equip a water supply well for that association.

## **Chapter 341 Section 219 Laws 2007**

Section 219. CEBOLLA MUTUAL DOMESTIC WATER CONSUMERS AND SEWAGE WORKS ASSOCIATION WATER METERING SYSTEM--CHANGE TO METAL BUILDING--GENERAL FUND.--The unexpended balance of the appropriation to the department of environment in Subsection 114 of Section 45 of Chapter 111 of

Laws 2006 for a water metering system for the Cebolla mutual domestic water consumers and sewage works association in Rio Arriba county shall not be expended for the original purpose but is changed to purchase and install a metal building for that association.

### **Chapter 341 Section 220 Laws 2007**

Section 220. GALLINA MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION WATER SYSTEM UPGRADES--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the department of environment project in Subsection 26 of Section 15 of Chapter 110 of Laws 2002 to upgrade the water system for the Gallina mutual domestic water consumers association in Rio Arriba county is extended through fiscal year 2011.

### **Chapter 341 Section 221 Laws 2007**

Section 221. DURANES Y GAVILAN MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION WATER SYSTEM--CHANGE TO WEST VALLECITOS COMMUNITY ACEQUIA IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 27 of Section 15 of Chapter 110 of Laws 2002 for water system improvements for the Duranes y Gavilan mutual domestic water consumers association in Rio Arriba county shall not be expended for the original purpose but is appropriated to the interstate stream commission to construct improvements, including repairs to the head and diversion gates, to the west Vallecitos community acequia in Rio Arriba county. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 222 Laws 2007**

Section 222. EL BARRANCO MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION WATER DISTRIBUTION SUPPLY SYSTEM--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the department of environment project in Subsection 25 of Section 15 of Chapter 110 of Laws 2002 for a water distribution supply system for El Barranco mutual domestic water consumers association in Abiquiu in Rio Arriba county is extended through fiscal year 2011.

### **Chapter 341 Section 223 Laws 2007**

Section 223. DIXON SENIOR CENTER--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the local government division project originally authorized in Subsection 181 of Section 22 of Chapter 110 of Laws 2002 and reauthorized and reappropriated to the aging and

long-term services department in Laws 2004, Chapter 126, Section 51 for planning, design and construction of a senior center in Dixon in Rio Arriba county is extended through fiscal year 2011.

### **Chapter 341 Section 224 Laws 2007**

Section 224. ESPANOLA LITTLE LEAGUE FIELD DUGOUTS AND BLEACHERS--CHANGE TO BALL FIELD IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 208 of Section 117 of Chapter 126 of Laws 2004 for dugout shelters and bleachers at little league baseball fields in Espanola in Rio Arriba county shall not be expended for the original purpose but is changed to make improvements to ball fields in Espanola.

### **Chapter 341 Section 225 Laws 2007**

Section 225. ESPANOLA LITTLE LEAGUE FIELDS LIGHTING--CHANGE TO BALL FIELD IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 60 of Section 117 of Chapter 126 of Laws 2004 for field lighting materials for little league baseball fields in Espanola in Rio Arriba county shall not be expended for the original purpose but is changed to make improvements to ball fields in Espanola.

### **Chapter 341 Section 226 Laws 2007**

Section 226. ESPANOLA CONVENTION CENTER PROPERTY AND CONSTRUCT--CHANGE TO CITY HALL AND CONFERENCE CENTER--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 213 of Section 117 of Chapter 126 of Laws 2004 for a convention center in Espanola in Rio Arriba county shall not be expended for the original purpose but is changed to plan, design and construct a city hall and conference center in Espanola.

### **Chapter 341 Section 227 Laws 2007**

Section 227. ESPANOLA CONVENTION CENTER CONSTRUCT--CHANGE TO CITY HALL AND CONFERENCE CENTER--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 479 of Section 52 of Chapter 111 of Laws 2006 for a convention center in Espanola in Rio Arriba county shall not be expended for the original purpose but is changed to plan, design and construct a city hall and conference center in Espanola.

### **Chapter 341 Section 228 Laws 2007**

Section 228. PLAZA DE ESPANOLA TOURISM FACILITY RENOVATION--CHANGE TO LANDSCAPING, CANOPIES AND DOWNTOWN IMPROVEMENTS--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 463 of Section 45 of Chapter 347 of Laws 2005 to renovate the tourism facility at the plaza de Espanola in Rio Arriba county shall not be expended for the original purpose but is changed to landscaping and canopies at that plaza and to make improvements to the downtown area of Espanola.

### **Chapter 341 Section 229 Laws 2007**

Section 229. ESPANOLA SENIOR CENTER KITCHEN FACILITY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the aging and long-term services department project in Subsection 15 of Section 3 of Chapter 110 of Laws 2002 to expand and equip the kitchen facility of the Espanola senior center in Rio Arriba county is extended through fiscal year 2008.

### **Chapter 341 Section 230 Laws 2007**

Section 230. NEW MEXICO STATE POLICE DISTRICT SEVEN OFFICE BUILDING ADDITION--EXPAND TO INCLUDE RENOVATIONS--SEVERANCE TAX BONDS.--The general services department project in Subsection 1 of Section 24 of Chapter 110 of Laws 2002 to plan, design, construct and equip an addition to the New Mexico state police district seven office building in Espanola in Rio Arriba county may include renovations. The time of expenditure is extended through fiscal year 2010.

### **Chapter 341 Section 231 Laws 2007**

Section 231. ESPANOLA PUBLIC ACCESS CHANNEL AND TELEVISION PRODUCTION FACILITY--CHANGE TO ESPANOLA PUBLIC SCHOOL DISTRICT MARIACHI SOL DEL VALLE HIGH SCHOOL BAND--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation for the northern New Mexico state school project originally authorized in Subsection F of Section 26 of Chapter 429 of Laws 2003 and reauthorized in Laws 2004, Chapter 126, Section 167 to the local government division for technology for the public access channel and television production facility in Espanola in Rio Arriba county shall not be expended for the original or reauthorized purpose but is appropriated to the public education department to purchase vehicles, a trailer, equipment and instruments for the mariachi sol del valle high school band in the Espanola public school district in Rio Arriba county.

### **Chapter 341 Section 232 Laws 2007**

Section 232. ESPANOLA PUBLIC ACCESS CHANNEL AND TELEVISION PRODUCTION FACILITY--CHANGE TO MARIACHI SOL DEL VALLE HIGH SCHOOL BAND VEHICLES AND EQUIPMENT--CHANGE AGENCY--CAPITAL PROJECTS FUND.--The unexpended balance of the appropriation to the local government division

in Subsection 200 of Section 134 of Chapter 126 of Laws 2004 for audio and video equipment and a production facility for the public access channel in Espanola in Rio Arriba county shall not be expended for the original purpose but is appropriated to the public education department to purchase vehicles, a trailer, equipment and instruments for the mariachi sol del valle high school band in the Espanola public school district in Rio Arriba county.

### **Chapter 341 Section 233 Laws 2007**

Section 233. OHKAY OWINGEH VISITORS' CENTER--CHANGE PURPOSE TO THE FIRST CAPITAL HERITAGE CENTER--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 84 of Section 50 of Chapter 111 of Laws 2006 to expand the visitors' center at Ohkay Owingeh in Rio Arriba county shall not be expended for the original purpose but is changed to design, plan and construct the first capital heritage center at Ohkay Owingeh.

### **Chapter 341 Section 234 Laws 2007**

Section 234. PUEBLO OF SANTA CLARA JUDICIAL COMPLEX IMPROVEMENTS--CHANGE TO CONSTRUCTION--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 80 of Section 50 of Chapter 111 of Laws 2006 for improvements to the judicial complex at the Pueblo of Santa Clara in Rio Arriba county shall not be expended for the original purpose but is changed to plan, design and construct a judicial complex at that pueblo.

### **Chapter 341 Section 235 Laws 2007**

Section 235. PUEBLO OF SANTA CLARA NEIGHBORHOOD FACILITY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 14 of Section 20 of Chapter 110 of Laws 2002 to renovate and equip the neighborhood facility at the Pueblo of Santa Clara in Rio Arriba county is extended through fiscal year 2011.

### **Chapter 341 Section 236 Laws 2007**

Section 236. PORTALES JUDICIAL COMPLEX--CHANGE TO ROOSEVELT COUNTY DETENTION CENTER IMPROVEMENTS--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 504 of Section 52 of Chapter 111 of Laws 2006 for a judicial complex in Portales shall not be expended for the original purpose but is changed to improve the security system at the Roosevelt county detention center.

### **Chapter 341 Section 237 Laws 2007**

Section 237. WATER STORAGE TANK IN DORA--CHANGE TO WATER SYSTEM IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 34 of Section 12 of Chapter 347 of Laws 2005 for a water storage tank in Dora shall not be expended for the original purpose, but is changed to plan, design and construct water system improvements in Dora in Roosevelt county.

### **Chapter 341 Section 238 Laws 2007**

Section 238. DORA WATER STORAGE TANK--CHANGE TO WATER SYSTEM IMPROVEMENTS--GENERAL FUND.--The unexpended balance of the appropriation to the department of environment in Subsection 102 of Section 36 of Chapter 347 of Laws 2005 for a water storage tank in Dora in Roosevelt county shall not be expended for the original purpose but is changed to plan, design and construct water system improvements in Dora.

### **Chapter 341 Section 239 Laws 2007**

Section 239. ELIDA MUNICIPAL SCHOOL DISTRICT MULTIPURPOSE FACILITY--EXPAND PURPOSE TO INCLUDE FURNISHING AND EQUIPPING--GENERAL FUND.--The unexpended balance of the appropriation to the public education department in Subsection 324 of Section 39 of Chapter 111 of Laws 2006 to construct a multipurpose facility in the Elida municipal school district in Roosevelt county may include furnishing and equipping that facility.

### **Chapter 341 Section 240 Laws 2007**

Section 240. ELIDA MUNICIPAL SCHOOL DISTRICT ROOF REPLACEMENT--EXPAND TO INCLUDE ATHLETIC FIELD--GENERAL

FUND.--The public education department project in Subsection 325 of Section 39 of Chapter 111 of Laws 2006 to replace the gymnasium roof at the Elida municipal school district in Roosevelt county may be expanded to improve and equip athletic fields in that school district.

### **Chapter 341 Section 241 Laws 2007**

Section 241. FLOYD MUNICIPAL SCHOOL DISTRICT SCIENCE EQUIPMENT--CHANGE TO INFORMATION TECHNOLOGY--GENERAL FUND.--The unexpended balance of the appropriation to the public education department in Subsection 328 of Section 39 of Chapter 111 of Laws 2006 for science equipment in the Floyd municipal school district in Roosevelt county shall not be expended for the original purpose but is changed to purchase and install educational technology, including related equipment and furniture, in that school district.

## **Chapter 341 Section 242 Laws 2007**

Section 242. FORT DEFIANCE AGENCY SENIOR CENTERS IN SAN JUAN COUNTY--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the aging and long-term services department project in Subsection 108 of Section 23 of Chapter 347 of Laws 2005 to purchase equipment for Fort Defiance agency senior centers on the Navajo Nation in San Juan county is extended through fiscal year 2008.

## **Chapter 341 Section 243 Laws 2007**

Section 243. SAN JUAN BASIN WATER SYSTEM--CHANGE AGENCY--GENERAL FUND.--The agency for the department of environment project in Subsection 132 of Section 45 of Chapter 111 of Laws 2006 to plan, design and construct a water system in the San Juan basin in San Juan county is changed to the board of regents of New Mexico institute of mining and technology.

## **Chapter 341 Section 244 Laws 2007**

Section 244. SAN JUAN RIVER ENDANGERED FISH SPECIES RECOVERY--EXTEND TIME--CAPITAL PROJECTS FUND.--The time of the expenditure for the water project fund project in Subsection 1 of Section 55 of Chapter 110 of Laws 2002 for improvements on the San Juan river for endangered fish species recovery in San Juan county is extended through fiscal year 2011.

## **Chapter 341 Section 245 Laws 2007**

Section 245. AZTEC COMMUNICATION CENTER RADIO EQUIPMENT--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the local government division project in Subsection 247 of Section 45 of Chapter 347 of Laws 2005 for radio console equipment for the 911 communications center in Aztec in San Juan county is extended through fiscal year 2009.

## **Chapter 341 Section 246 Laws 2007**

Section 246. SAN JUAN SENIOR CENTER IMPROVEMENTS--CHANGE TO AZTEC SENIOR CENTER--GENERAL FUND.--The unexpended balance of the appropriation to the aging and long-term services department in Subsection 101 of Section 23 of Chapter 347 of Laws 2005 to make improvements to the San Juan senior center in San Juan county shall not be expended for the original purpose but is changed to purchase, equip and furnish the Aztec senior center in San Juan county.

## **Chapter 341 Section 247 Laws 2007**

Section 247. BLOOMFIELD RESERVOIR DREDGE--CHANGE TO BLOOMFIELD DAM IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended

balance of the appropriation to the office of the state engineer in Subsection 9 of Section 12 of Chapter 429 of Laws 2003 to dredge the reservoir in Bloomfield in San Juan county shall not be expended for the original purpose but is changed to design and construct improvements to Bloomfield dam in San Juan county.

### **Chapter 341 Section 248 Laws 2007**

Section 248. BLOOMFIELD BERGIN LANE IMPROVEMENTS--CHANGE TO NORTH FRONTIER STREET IMPROVEMENTS--GENERAL FUND.--The unexpended balance of the appropriation to the department of transportation in Subsection 78 of Section 52 of Chapter 347 of Laws 2005 for improvements to Bergin lane in Bloomfield in San Juan county shall not be expended for the original purpose but is changed to plan, design and construct roadway improvements to North Frontier street in that city.

### **Chapter 341 Section 249 Laws 2007**

Section 249. BLOOMFIELD RESERVOIR DREDGING--CHANGE PURPOSE TO DESIGN AND CONSTRUCT IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the office of the state engineer in Subsection 14 of Section 12 of Chapter 429 of Laws 2003 to dredge the Bloomfield reservoir in Bloomfield in San Juan county shall not be expended for the original purpose but is changed to design and construct improvements to Bloomfield reservoir.

### **Chapter 341 Section 250 Laws 2007**

Section 250. BLOOMFIELD SIDEWALK AND BIKE LANE IMPROVEMENTS--CHANGE TO NORTH FRONTIER ROADWAY IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 76 of Section 22 of Chapter 111 of Laws 2006 for sidewalk and bike lane improvements on Third and Fourth streets in Bloomfield in San Juan county shall not be expended for the original purpose but is changed to plan, design and construct roadway improvements to North Frontier street in Bloomfield.

### **Chapter 341 Section 251 Laws 2007**

Section 251. BURNHAM CHAPTER SENIOR CENTER--CHANGE TO BURNHAM CHAPTER VETERANS' MULTICOMPLEX BUILDING--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the aging and long-term services department in Subsection 121 of Section 23 of Chapter 347 of Laws 2005 to plan, design, construct, equip and furnish a senior center for the Burnham chapter of the Navajo Nation in San Juan county shall not be expended for the original purpose but is appropriated to the Indian affairs department to plan, design, construct, equip and furnish a veterans' multicomplex building for the Burnham chapter.

### **Chapter 341 Section 252 Laws 2007**

Section 252. NASCHITTI CHAPTER SOLAR ELECTRIC SYSTEM--CHANGE TO SAN JUAN COUNTY ANIMAL SHELTER--EXTEND TIME--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 20 of Section 20 of Chapter 110 of Laws 2002 for the solar electric system in the Naschitti chapter shall not be expended for the original purpose but is appropriated to the local government division to plan, design, construct and acquire land for a regional animal shelter in Farmington in San Juan county. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 253 Laws 2007**

Section 253. SAN JUAN REGIONAL MEDICAL CENTER INTRAVENOUS PUMP--CHANGE PURPOSE TO RENOVATIONS AND ADDITIONS--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 508 of Section 52 of Chapter 111 of Laws 2006 to purchase intravenous pumps for the San Juan regional medical center in Farmington in San Juan county shall not be expended for the original purpose but is changed to plan, design and construct renovations and additions to the San Juan regional medical center.

### **Chapter 341 Section 254 Laws 2007**

Section 254. SAN JUAN COUNTY VETERANS' CENTER VAN--CHANGE TO SAN JUAN COLLEGE TRADES AND TECHNOLOGY BUILDING--CHANGE AGENCY--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 473 of Section 45 of Chapter 347 of Laws 2005 for a van for the veterans' center in San Juan county shall not be expended for the original purpose but is appropriated to the higher education department to plan, design, construct, equip and furnish the trades and technology building at San Juan college in Farmington in San Juan county. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 255 Laws 2007**

Section 255. SAN JUAN REGIONAL MEDICAL CENTER EAST TOWER--CHANGE TO SAN JUAN COLLEGE TRADES AND TECHNOLOGY BUILDING--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 475 of Section 45 of Chapter 347 of Laws 2005 for construction of a tower at the regional medical center in San Juan county shall not be expended for the original purpose but is appropriated to the higher education department to plan, design, construct, equip and furnish the trades and technology building at San Juan college in Farmington in San Juan county.

### **Chapter 341 Section 256 Laws 2007**

Section 256. KIRTLAND ELEMENTARY SCHOOL EDUCATIONAL TECHNOLOGY--CHANGE TO SAN JUAN COLLEGE TRADES AND TECHNOLOGY

BUILDING--CHANGE AGENCY--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the public education department in Subsection 307 of Section 48 of Chapter 347 of Laws 2005 for educational technology at Kirtland elementary school in the Central consolidated school district in San Juan county shall not be expended for the original purpose but is appropriated to the higher education department to plan, design, construct, equip and furnish the trades and technology building at San Juan college in Farmington in San Juan county. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 257 Laws 2007**

Section 257. NAGEEZI CHAPTER HELICOPTER PAD--CHANGE TO POWERLINE EXTENSIONS--SEVERANCE TAX BONDS.--The unexpended balances of the appropriations to the Indian affairs department in Subsection 65 of Section 21 of Chapter 429 of Laws 2003 and Subsection 21 of Section 115 of Chapter 126 of Laws 2004 for a helicopter pad in the Nageezi chapter of the Navajo Nation in San Juan county shall not be expended for the original purpose but are changed to plan, design and construct scattered powerline extensions in that chapter.

### **Chapter 341 Section 258 Laws 2007**

Section 258. NAGEEZI SENIOR CENTER VEHICLES--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the aging and long-term services department project in Subsection 110 of Section 23 of Chapter 347 of Laws 2005 for vehicles for the Nageezi senior center on the Navajo Nation in San Juan county is extended through fiscal year 2008.

### **Chapter 341 Section 259 Laws 2007**

Section 259. NEWCOMB CHAPTER TRUCK AND TRAILER--CHANGE TO VEHICLES--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 42 of Section 43 of Chapter 347 of Laws 2005 for a truck and trailer for the Newcomb chapter of the Navajo Nation in San Juan county shall not be expended for the original purpose but is changed to purchase and equip vehicles for that chapter. The time of the expenditure is extended through fiscal year 2009.

### **Chapter 341 Section 260 Laws 2007**

Section 260. SHIPROCK WATER AND SEWER LINE EXTENSION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 59 of Section 20 of Chapter 110 of Laws 2002 for a water and sewer line extension at N-36 on the southside of Shiprock in San Juan county is extended through fiscal year 2011.

## **Chapter 341 Section 261 Laws 2007**

Section 261. SHIPROCK WATER LINE EXTENSION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the Indian affairs department project in Subsection 17 of Section 20 of Chapter 110 of Laws 2002 to plan, design and construct a water line extension to the southside area of Shiprock in San Juan county is extended through fiscal

year 2011.

## **Chapter 341 Section 262 Laws 2007**

Section 262. SHIPROCK CHAPTER DOMESTIC VIOLENCE SHELTER--CLARIFY PURPOSE--GENERAL FUNDS.--The Indian affairs department project in Subsection 97 of Section 50 of Chapter 111 of Laws 2006 to construct, equip, furnish, improve and expand the domestic violence shelter in the Shiprock chapter of the Navajo Nation in San Juan county may include continuing the planning, design and construction of the shelter.

## **Chapter 341 Section 263 Laws 2007**

Section 263. SHIPROCK CHAPTER DOMESTIC VIOLENCE SHELTER FURNISH AND EQUIP--EXTEND TIME--CAPITAL PROJECTS FUND.--The time of the expenditure for the Indian affairs department project originally authorized in Subsection 34 of Section 33 of Chapter 126 of Laws 2004 and reauthorized in Laws 2005, Chapter 347, Section 150 to furnish and equip a domestic violence shelter in the Shiprock chapter of the Navajo Nation in San Juan county is extended through fiscal year 2009.

## **Chapter 341 Section 264 Laws 2007**

Section 264. ANCON DEL GATO ACEQUIA IMPROVEMENTS--CLARIFY NAME--EXTEND TIME--NEW MEXICO IRRIGATION WORKS CONSTRUCTION FUND.--The office of the state engineer project in Subsection 4 of Section 60 of Chapter 110 of Laws 2002 is for improvements to the Ancon del Gato acequia in San Miguel county. The time of the expenditure is extended through fiscal year 2011.

## **Chapter 341 Section 265 Laws 2007**

Section 265. NEW MEXICO HIGHLANDS UNIVERSITY CENTER FOR THE EDUCATION AND STUDY OF DIVERSE POPULATIONS--EXPAND TO INCLUDE RENOVATING AND EQUIPPING--GENERAL FUND.--The New Mexico highlands university project in Subsection B of Section 15 of Chapter 385 of Laws 2003 to plan and design the center for the education and study of diverse populations in San Miguel county may include renovating and equipping the center. The time of the expenditure is extended through fiscal year 2009.

## **Chapter 341 Section 266 Laws 2007**

Section 266. LAS VEGAS DOWNTOWN REVITALIZATION PROJECT--EXPAND TO INCLUDE LAND ACQUISITION--EXTEND TIME--SEVERANCE TAX BONDS.--The local government division project originally authorized in Subsection 1 of Section 10 of Chapter 429 of Laws 2003 and reauthorized in Laws 2004, Chapter 126, Section 88 for the downtown revitalization project in Las Vegas in San Miguel county may include land and property acquisition. The time of the expenditure is extended through fiscal year 2011.

## **Chapter 341 Section 267 Laws 2007**

Section 267. LAS VEGAS DRAG RACE STRIP--CHANGE TO SHOOTING RANGE IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 296 of Section 22 of Chapter 429 of Laws 2003 for a drag race strip in Las Vegas in San Miguel county shall not be expended for the original purpose but is changed to design and construct improvements to the Las Vegas shooting range in that county.

## **Chapter 341 Section 268 Laws 2007**

Section 268. PONDEROSA SPILLWAY AND HEADWALL REPAIR--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The interstate stream commission project in Subsection 4 of Section 14 of Chapter 110 of Laws 2002 for repair of the spillway and armoring the headwall of the dam for the Ponderosa ditch association may include planning. The time of the expenditure is extended through fiscal year 2011.

## **Chapter 341 Section 269 Laws 2007**

Section 269. COCHITI LAKE WASTEWATER SYSTEM STUDY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the department of environment project in Subsection 35 of Section 15 of Chapter 110 of Laws 2002 for an engineering analysis of a wastewater system in Cochiti Lake in Sandoval county is extended through fiscal year 2009.

## **Chapter 341 Section 270 Laws 2007**

Section 270. EMERGENCY POWER SYSTEM AND FIRE TRUCK EQUIPMENT FOR THE PUEBLO OF COCHITI--CHANGE TO WASTE MANAGEMENT VEHICLE--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 120 of Section 50 of Chapter 111 of Laws 2006 to purchase an emergency backup power system and fire truck equipment for the Pueblo of Cochiti in Sandoval county shall not be expended for the original purpose but is changed to purchase a waste management vehicle for the Pueblo of Cochiti.

## **Chapter 341 Section 271 Laws 2007**

Section 271. PUEBLO OF COCHITI WATER SYSTEM--CHANGE TO WASTE MANAGEMENT VEHICLE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 81 of Section 21 of Chapter 429 of Laws 2003 to design and construct a hydrant and gate valve system for the water system at the Pueblo of Cochiti in Sandoval county shall not be expended for the original purpose but is changed to purchase and equip a waste management vehicle.

## **Chapter 341 Section 272 Laws 2007**

Section 272. CORRALES ANIMAL CONTROL UNIT--EXPAND PURPOSE--GENERAL FUND.--The local government division project in Subsection 270 of Section 45 of Chapter 347 of Laws 2005 to purchase an animal control unit in Corrales in Sandoval county may include purchasing additional units.

## **Chapter 341 Section 273 Laws 2007**

Section 273. JEMEZ SPRINGS FIRE STATION ADDITION--CHANGE TO FIRE PUMPER TANKER PURCHASE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division originally authorized in Subsection SSSS of Section 17 of Chapter 2 of Laws 1999 (1st S.S.) and reauthorized in Subparagraph (c) of Paragraph (1) of Subsection A of Section 176 of Chapter 429 of Laws 2003 for an addition to the volunteer fire station in Jemez Springs in Sandoval county shall not be expended for the original or reauthorized purpose but is changed to purchase and equip a fire pumper tanker for that fire department.

## **Chapter 341 Section 274 Laws 2007**

Section 274. LISBON ROAD CURBING AND SIDEWALKS--CHANGE TO TULIP AND ABRAZO ROADS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 84 of Section 22 of Chapter 111 of Laws 2006 for curbing and sidewalks along Lisbon road shall not be expended for the original purpose but is changed to plan, design and construct curbing and sidewalks from the intersection of Lisbon and Tulip roads and continuing northeast on Tulip to Abrazo, and then east on Abrazo to Unser boulevard in Rio Rancho in Sandoval county.

## **Chapter 341 Section 275 Laws 2007**

Section 275. PUEBLO OF SANTO DOMINGO INFRASTRUCTURE SYSTEM--CHANGE TO CONSTRUCT AN EMERGENCY MEDICAL SERVICES AND FIRE STATION FACILITY--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 108 of Section 50 of Chapter 111 of Laws

2006 for a centralized community infrastructure system at the Pueblo of Santo Domingo in Sandoval county shall not be expended for the original purpose but is changed to construct an emergency medical services and fire station facility at that pueblo.

### **Chapter 341 Section 276 Laws 2007**

Section 276. SEWER LINE EXTENSION FROM AGUA FRIA ROAD THROUGH RUMBO AL SUR IN SANTA FE COUNTY--CHANGE AGENCY--GENERAL FUND.--The agency for the appropriation to the department of transportation in Subsection 158 of Section 60 of Chapter 111 of Laws 2006 for a sewer line extension from Agua Fria road through Rumbo al Sur road to the dead end and for improvements and stabilization to Rumbo al Sur road is changed to the department of environment.

### **Chapter 341 Section 277 Laws 2007**

Section 277. ESPERANZA SHELTER ADMINISTRATIVE COMPLEX--EXPAND PURPOSE TO INCLUDE PURCHASING--GENERAL FUND.--The local government division project in Subsection 581 of Section 52 of Chapter 111 of Laws 2006 to acquire land for, plan, design, construct, equip and furnish the Esperanza shelter administrative complex in Santa Fe county may include the purchase of buildings or modulars for that complex.

### **Chapter 341 Section 278 Laws 2007**

Section 278. LA CIENEGA COMMUNITY PARK CONSTRUCTION--EXPAND TO INCLUDE COMMUNITY CENTER--SEVERANCE TAX BONDS.--The local government division project in Subsection 273 of Section 18 of Chapter 111 of Laws 2006 for La Cienega community park in Santa Fe county may include site improvements and planning, design, purchase, installation, equipping and furnishing of a modular building for La Cienega community center in Santa Fe county.

### **Chapter 341 Section 279 Laws 2007**

Section 279. LA CIENEGA COMMUNITY PARK CONSTRUCTION--EXPAND TO INCLUDE COMMUNITY CENTER--SEVERANCE TAX BONDS.--The local government division project in Subsection 333 of Section 22 of Chapter 429 of Laws 2003 for a community park in La Cienega in Santa Fe county may include site improvements and planning, design, purchase, installation, equipping and furnishing of a modular building for La Cienega community center in Santa Fe county.

### **Chapter 341 Section 280 Laws 2007**

Section 280. LA CIENEGA COMMUNITY CENTER LAND PURCHASE--EXPAND TO INCLUDE MODULAR BUILDING--GENERAL FUND.--The local government division project originally authorized in Subsection 283 of Section 45 of

Chapter 347 of Laws 2005 and reauthorized in Laws 2006, Chapter 107, Section 151 to purchase land for La Cienega community center in Santa Fe county may include site improvements and planning, design, purchase, installation, equipping and furnishing of a modular building for that center.

### **Chapter 341 Section 281 Laws 2007**

Section 281. LA CIENEGA COMMUNITY CENTER IMPROVEMENTS--EXPAND TO INCLUDE MODULAR BUILDING--SEVERANCE TAX BONDS.--The local government division project in Subsection 332 of Section 22 of Chapter 429 of Laws 2003 for La Cienega community center in Santa Fe county may include site improvements and planning, design, purchase, installation, equipping and furnishing of a modular building for that community center.

### **Chapter 341 Section 282 Laws 2007**

Section 282. NAMBE-POJOAQUE-TESUQUE BASIN WATER PROJECTS--EXTEND TIME--GENERAL OBLIGATION BONDS.--The time of the expenditure for the office of the state engineer project in Paragraph (4) of Subsection F of Section 10 of Chapter 93 of Laws 2002 for the Nambe-Pojoaque-Tesuque basin in Santa Fe county is extended through fiscal year 2010.

### **Chapter 341 Section 283 Laws 2007**

Section 283. NEW MEXICO HIGHWAY 14 BUSINESS PARK TURNING LANES AND ENTRANCE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the department of transportation project in Subsection 140 of Section 19 of Chapter 110 of Laws 2002 for turning lanes and an entrance to a business park on New Mexico highway 14 in Santa Fe county is extended through fiscal year 2009.

### **Chapter 341 Section 284 Laws 2007**

Section 284. SANTA FE COUNTY RECOVERING ALCOHOLICS CENTER FACILITY--EXPAND TO INCLUDE PURCHASE OF A BUILDING OR MODULAR AND FURNISHINGS--EXTEND TIME--CAPITAL PROJECTS FUND.--The unexpended balance of the appropriation to the local government division in Subsection 193 of Section 134 of Chapter 126 of Laws 2004 and reauthorized in Laws 2006, Chapter 107, Section 153 to purchase land for and plan, design, construct, equip and renovate a facility for a recovering alcoholics center in Santa Fe county may include purchasing a building and purchasing and installing modulares and furniture for that center. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 285 Laws 2007**

Section 285. ESPERANZA SHELTER ADMINISTRATIVE COMPLEX--EXPAND TO INCLUDE MODULAR BUILDING AND SITE IMPROVEMENTS--SEVERANCE TAX BONDS.--The local government division project in Subsection 164 of Section 16 of Chapter 347 of Laws 2005 for the Esperanza shelter administrative complex in Santa Fe county may include site improvements and purchase and installation of a modular building at that complex.

### **Chapter 341 Section 286 Laws 2007**

Section 286. ESPERANZA SHELTER ADMINISTRATIVE COMPLEX--EXPAND TO INCLUDE MODULAR BUILDING AND SITE IMPROVEMENTS--GENERAL FUND.-  
-The local government division project in Subsection 280 of Section 45 of Chapter 347 of Laws 2005 for the Esperanza shelter administrative complex in Santa Fe county may include site improvements and purchase and installation of a modular building at that complex.

### **Chapter 341 Section 287 Laws 2007**

Section 287. LA FAMILIA MEDICAL CENTER IN SANTA FE COUNTY--EXPAND PURPOSE--GENERAL FUND.--The local government division project in Subsection 484 of Section 45 of Chapter 347 of Laws 2005 to plan, design and construct a medical facility for the southside La Familia medical center in Santa Fe county may include equipping and making improvements.

### **Chapter 341 Section 288 Laws 2007**

Section 288. AGUA FRIA PRESCHOOL PLAYGROUND EQUIPMENT--CHANGE TO ZONA DEL SOL YOUTH CENTER ADDITION--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 292 of Section 45 of Chapter 347 of Laws 2005 for playground equipment for the Agua Fria preschool project in Santa Fe county shall not be expended for the original purpose but is changed to plan, design, construct and equip an addition to the Zona del Sol youth center in Santa Fe in Santa Fe county. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 289 Laws 2007**

Section 289. CERRILLOS MULTIPURPOSE CENTER--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for the local government division appropriation in Subsection 280 of Section 18 of Chapter 111 of Laws 2006 to plan, design and construct a multipurpose center in Cerrillos in Santa Fe county is changed to the energy, minerals and natural resources department.

### **Chapter 341 Section 290 Laws 2007**

Section 290. LA PUEBLA COMMUNITY CENTER--EXPAND TO INCLUDE MODULAR BUILDING AND SITE IMPROVEMENTS--SEVERANCE TAX BONDS.--The local government division project in Subsection 59 of Section 117 of Chapter 126 of Laws 2004 for a community center in La Puebla in Santa Fe county may include site improvements and purchase and installation of a modular building at that center.

### **Chapter 341 Section 291 Laws 2007**

Section 291. LA PUEBLA COMMUNITY MULTIPURPOSE CENTER--EXPAND TO INCLUDE MODULAR BUILDING AND SITE IMPROVEMENTS--GENERAL FUND.-  
-The local government division project in Subsection 590 of Section 52 of Chapter 111 of Laws 2006 for a community multipurpose center in La Puebla in Santa Fe county may include site improvements and purchase and installation of a modular building at that center.

### **Chapter 341 Section 292 Laws 2007**

Section 292. LA PUEBLA BASKETBALL COURT IMPROVEMENTS--CHANGE PURPOSE TO PURCHASE PLAYGROUND EQUIPMENT AND MAKE IMPROVEMENTS--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 487 of Section 45 of Chapter 347 of Laws 2005 to plan, design and construct improvements to the basketball court in La Puebla in Santa Fe county shall not be expended for the original purpose but is changed to purchase playground equipment and make improvements to the playgrounds in La Puebla.

### **Chapter 341 Section 293 Laws 2007**

Section 293. MADRID OSCAR HUBER MEMORIAL BALLPARK IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of the expenditure for the local government division project in Subsection 215 of Section 22 of Chapter 110 of Laws 2002 for improvements to the Oscar Huber memorial ballpark in Madrid in Santa Fe county is extended through fiscal year 2011.

### **Chapter 341 Section 294 Laws 2007**

Section 294. SAN ILDEFONSO EARLY CHILDHOOD CENTER--CHANGE TO SAN ILDEFONSO LEARNING CENTER--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 131 of Section 50 of Chapter 111 of Laws 2006 to renovate the early childhood center at the Pueblo of San Ildefonso in Santa Fe county shall not be expended for the original purpose but is changed to renovate and equip the San Ildefonso learning center at that pueblo.

### **Chapter 341 Section 295 Laws 2007**

Section 295. FIRST JUDICIAL DISTRICT ATTORNEY'S OFFICE VEHICLE PURCHASE--CHANGE TO INFORMATION TECHNOLOGY--GENERAL FUND.--The unexpended balance of the appropriation to the first judicial district attorney's office in Subsection A of Section 29 of Chapter 347 of Laws 2005 to purchase a vehicle for the first judicial district attorney's office in Santa Fe in Santa Fe county shall not be expended for the original purpose but is changed to purchase and install information technology, including related equipment and furniture, in that office.

### **Chapter 341 Section 296 Laws 2007**

Section 296. ESPERANZA SHELTER ADMINISTRATIVE COMPLEX IN SANTA FE--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The local government division project in Subsection 270 of Section 18 of Chapter 111 of Laws 2006 to acquire land for, plan, design, construct, equip and furnish the Esperanza shelter administrative complex in Santa Fe county may include purchases and improvements.

### **Chapter 341 Section 297 Laws 2007**

Section 297. SANTA FE SOUTHSIDE SENIOR CENTER--CHANGE TO GENOVEVA CHAVEZ COMMUNITY CENTER--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the aging and long-term services department in Subsection 17 of Section 3 of Chapter 110 of Laws 2002 to construct the southside senior center in Santa Fe shall not be expended for the original purpose but is appropriated to the local government division to plan, design, construct, expand and make improvements to the parking lot, facility and site at the Genoveva Chavez community center in Santa Fe in Santa Fe county. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 298 Laws 2007**

Section 298. SANTA FE SOUTHSIDE SENIOR CENTER CONSTRUCTION--CHANGE TO SANTA FE GENOVEVA CHAVEZ COMMUNITY CENTER IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the aging and long-term services department in Subsection 30 of Section 3 of Chapter 110 of Laws 2002 to construct a senior center on the south side of Santa Fe in Santa Fe county shall not be expended for the original purpose but is appropriated to the local government division to plan, design, construct, expand and make improvements to the parking lot, facility and site at the Genoveva Chavez community center in Santa Fe in Santa Fe county. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 299 Laws 2007**

Section 299. SANTA FE SOUTHSIDE SENIOR CENTER CONSTRUCTION--CHANGE TO GENOVEVA CHAVEZ COMMUNITY CENTER--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the aging

and long-term services department in Subsection 93 of Section 4 of Chapter 429 of Laws 2003 to construct a senior center on the south side of Santa Fe in Santa Fe county shall not be expended for the original purpose but is appropriated to the local government division to plan, design, construct, expand and make improvements to the parking lot, facility and site at the Genoveva Chavez community center in Santa Fe.

### **Chapter 341 Section 300 Laws 2007**

Section 300. SANTA FE SOUTHSIDE SENIOR CENTER--CHANGE TO GENOVEVA CHAVEZ COMMUNITY CENTER IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance for the aging and long-term services department project originally authorized in Subsection 19 of Section 3 of Chapter 110 of Laws 2002 and reauthorized in Laws 2003, Chapter 429, Section 44 for a southside senior center adjacent to the Genoveva Chavez community center in Santa Fe county shall not be expended for the original or the reauthorized purpose but is appropriated to the local government division to plan, design, construct, expand and make improvements to the parking lot, facility and site at the Genoveva Chavez community center in Santa Fe in Santa Fe county. The time of the expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 301 Laws 2007**

Section 301. SANTA FE SOUTHSIDE SENIOR CENTER--CHANGE TO GENOVEVA CHAVEZ COMMUNITY CENTER--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the aging and long-term services department in Subsection 16 of Section 3 of Chapter 347 of Laws 2005 for the southside senior center in Santa Fe shall not be expended for the original purpose but is appropriated to the local government division to plan, design, construct, expand and make improvements to the parking lot, facility and site at the Genoveva Chavez community center in Santa Fe in Santa Fe county.

### **Chapter 341 Section 302 Laws 2007**

Section 302. EXPANSION OF LA FAMILIA MEDICAL CENTER IN SANTA FE--CHANGE TO IMPROVEMENTS TO LA FAMILIA MEDICAL CENTER--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 584 of Section 52 of Chapter 111 of Laws 2006 to construct an expansion of La Familia medical center on Caja del Oro Grant road in Santa Fe county shall not be expended for the original purpose but is changed to plan, design, construct, equip and improve the La Familia medical center.

### **Chapter 341 Section 303 Laws 2007**

Section 303. SANTA FE PALACE OF THE GOVERNORS PROJECT--EXTEND TIME--CAPITAL PROJECTS FUND.--The time of the expenditure for the cultural affairs department project in Subsection 2 of Section 40 of Chapter 110 of Laws 2002 for the

palace of the governors project in Santa Fe in Santa Fe county is extended through fiscal year 2011.

### **Chapter 341 Section 304 Laws 2007**

Section 304. SANTA FE PUBLIC SCHOOL DISTRICT TURF IMPROVEMENT--CHANGE TO ZONA DEL SOL YOUTH CENTER ADDITION--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the public education department in Subsection 171 of Section 48 of Chapter 347 of Laws 2005 for improvements to turf at Wood Gormley and Cesar Chavez elementary schools in the Santa Fe public school district in Santa Fe county shall not be expended for the original purpose but is appropriated to the local government division to construct an addition for the Zona del Sol youth center in Santa Fe.

### **Chapter 341 Section 305 Laws 2007**

Section 305. ELECTRONIC REPORTING SYSTEM FOR THE SECRETARY OF STATE--EXTEND TIME--CAPITAL PROJECTS FUND.--The time of the expenditure for the secretary of state project in Laws 2002, Chapter 110, Section 46 for an electronic reporting system for public inspection of reports of campaign expenditures and contributions is extended through fiscal year 2009.

### **Chapter 341 Section 306 Laws 2007**

Section 306. SANTA FE SOUTHSIDE SENIOR CENTER--ZONA DEL SOL YOUTH CENTER ADDITION--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the aging and long-term services department appropriation originally authorized in Subsection 69 of Section 4 of Chapter 429 of Laws 2003 and reauthorized in Laws 2004, Chapter 126, Section 53 for a southside senior center in Santa Fe county shall not be expended for the original or reauthorized purpose but is appropriated to the local government division to plan, design, construct and equip an addition at the Zona del Sol youth center in Santa Fe and is extended through fiscal year 2011.

### **Chapter 341 Section 307 Laws 2007**

Section 307. ELEPHANT BUTTE EMERGENCY MEDICAL SERVICES EQUIPMENT--CHANGE TO SAN MATEO STREET DRAINAGE IMPROVEMENTS--EXTEND TIME--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 308 of Section 45 of Chapter 347 of Laws 2005 for equipment for the Elephant Butte emergency medical services in Sierra county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct drainage improvements and culverts for flood control on San Mateo street in Elephant Butte. The time of the expenditure is extended through fiscal year 2011.

## **Chapter 341 Section 308 Laws 2007**

Section 308. NORTHERN SOCORRO CLINIC--CHANGE TO VEGUITA HEALTH AND COMMUNITY CENTER--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 294 of Section 18 of Chapter 111 of Laws 2006 for a northern Socorro clinic in Veguita in Socorro county shall not be expended for the original purpose but is changed to plan, design, construct and equip the Veguita health and community center in that county.

## **Chapter 341 Section 309 Laws 2007**

Section 309. DAM REHABILITATION STATEWIDE--EXTEND TIME--GENERAL OBLIGATION BONDS.--The time of the expenditure for the office of the state engineer project in Paragraph (5) of Subsection F of Section 10 of Chapter 93 of Laws 2002 for dam rehabilitation projects statewide is extended through fiscal year 2010.

## **Chapter 341 Section 310 Laws 2007**

Section 310. MAINSTREET PROGRAM CENTRAL BUSINESS DISTRICT REDEVELOPMENT--EXPAND TO INCLUDE CONSTRUCTION--GENERAL FUND.--The economic development department project in Subsection 4 of Section 32 of Chapter 347 of Laws 2005 to plan and design the redevelopment of central business districts as part of the mainstreet program statewide may include construction.

## **Chapter 341 Section 311 Laws 2007**

Section 311. MAINSTREET PROGRAM CENTRAL BUSINESS DISTRICT REDEVELOPMENT--EXPAND TO INCLUDE CONSTRUCTION--GENERAL FUND.--The economic development department project in Subsection 5 of Section 38 of Chapter 111 of Laws 2006 to plan and design the redevelopment of central business districts as part of the mainstreet program statewide may include construction.

## **Chapter 341 Section 312 Laws 2007**

Section 312. STATEWIDE PARK IMPROVEMENTS--EXPAND TO INCLUDE TRAIL IMPROVEMENTS--GENERAL FUND.--The energy, minerals and natural resources department project in Subsection 1 of Section 33 of Chapter 347 of Laws 2005 for statewide park improvements may include trail improvements statewide.

## **Chapter 341 Section 313 Laws 2007**

Section 313. PECOS RIVER COMPACT SETTLEMENT--EXTEND TIME--APPROPRIATION CONTINGENCY FUND.--The time of the expenditure for the appropriation contingency fund and interstate stream commission projects in Subsections A and B of Section 78 of Chapter 111 of Laws 2006 to purchase land and

water rights within the interstate stream commission's existing pricing guidelines and for the development of augmentation well fields and pipelines and related professional services is extended through fiscal year 2008. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the appropriation contingency fund.

### **Chapter 341 Section 314 Laws 2007**

Section 314. CAPITAL IMPROVEMENTS AT PUBLIC BUILDINGS STATEWIDE--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The general services department appropriations originally authorized in Subsections (1) through (11) of Section 14 of Chapter 118 of Laws 1998 and reauthorized in Subsection A of Section 53 of Chapter 99 of Laws 2002 to renovate, repair and improve state buildings throughout the state may also include planning, designing and equipping those state facilities, and the time of expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 315 Laws 2007**

Section 315. PUBLIC BUILDING IMPROVEMENTS STATEWIDE--EXTEND TIME--CAPITAL PROJECTS FUND.--The time of the expenditure for the public buildings repair fund appropriations in Subsections 1 and 2 of Section 56 of Chapter 110 of Laws 2002 for capital improvements at public buildings throughout the state is extended through fiscal year 2008. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the public buildings repair fund.

### **Chapter 341 Section 316 Laws 2007**

Section 316. TALPA COMMUNITY CENTER GYMNASIUM--CHANGE TO CERRO COMMUNITY CENTER RENOVATIONS--GENERAL FUND.--The unexpended balance of the appropriation to the local government division originally authorized in Subsection 501 of Section 45 of Chapter 347 of Laws 2005 and reauthorized in Laws 2006, Chapter 107, Section 174 for a gymnasium for the Talpa community center in Taos county shall not be expended for the reauthorized purpose but is changed to renovate, construct and equip the Cerro community center in Taos county.

### **Chapter 341 Section 317 Laws 2007**

Section 317. RANCHOS DE TAOS GYMNASIUM IN TAOS COUNTY--CHANGE TO TALPA COMMUNITY CENTER--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 502 of Section 45 of Chapter 347 of Laws 2005 to plan, design and construct a gymnasium at the youth center in Ranchos de Taos in Taos county shall not be expended for the original purpose but is changed to plan, design and construct a gymnasium for the youth at Talpa community center in Taos county.

## **Chapter 341 Section 318 Laws 2007**

Section 318. TAOS COUNTY YAXCHE LEARNING CENTER--CHANGE PURPOSE TO TAOS COUNTY MACHINERY AND VEHICLE PURCHASE--

SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 487 of Section 22 of Chapter 429 of Laws 2003 for the Yaxche learning center in Taos county shall not be expended for the original purpose but is changed to acquire, purchase and equip machinery, trucks, trailers, equipment and vehicles for the Taos county road department.

## **Chapter 341 Section 319 Laws 2007**

Section 319. TAOS COUNTY WOMEN'S DRUG AND ALCOHOL REHABILITATION CENTER--EXPAND PURPOSE--GENERAL FUND.--The local government division project in Subsection 685 of Section 52 of Chapter 111 of Laws 2006 for a women's drug and alcohol rehabilitation center in Taos county may include purchasing an office building, installation of security and telephone systems and perimeter fencing.

## **Chapter 341 Section 320 Laws 2007**

Section 320. QUESTA INFRASTRUCTURE IMPROVEMENTS--CHANGE TO ECONOMIC DEVELOPMENT PROJECT FACILITY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 178 of Section 16 of Chapter 347 of Laws 2005 for infrastructure improvements in Questa in Taos county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, equip and furnish a facility for an economic development project in Questa.

## **Chapter 341 Section 321 Laws 2007**

Section 321. QUESTA MUSEUM IMPROVEMENTS--CHANGE TO MULTIUSE BUILDING IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 287 of Section 16 of Chapter 347 of Laws 2005 for museum improvements in Questa in Taos county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, equip and furnish improvements to a multiuse building in Questa.

## **Chapter 341 Section 322 Laws 2007**

Section 322. QUESTA SPIRE SOLAR PROJECT--CHANGE TO SOLAR ECONOMIC DEVELOPMENT PROJECT--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 284 of Section 16 of Chapter 347 of Laws 2005 for a spire solar project in Questa in

Taos county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, equip and furnish a facility for a solar economic development project in Questa.

### **Chapter 341 Section 323 Laws 2007**

Section 323. QUESTA WASTEWATER TREATMENT PLANT--EXPAND TO WASTEWATER COLLECTION LINES--GENERAL FUND.--The department of environment project in Subsection 111 of Section 36 of Chapter 347 of Laws 2005 for a wastewater treatment plant in Questa in Taos county may include wastewater collection lines.

### **Chapter 341 Section 324 Laws 2007**

Section 324. QUESTA WASTEWATER TREATMENT PLANT IMPROVEMENTS--CHANGE TO CONSTRUCTION--CAPITAL PROJECTS FUND.--

The unexpended balance of the department of environment appropriation in Subsection 86 of Section 29 of Chapter 126 of Laws 2004 for improvements to the wastewater treatment plant in Questa in Taos county shall not be expended for the original purpose but is changed to plan, design and construct a wastewater treatment plant, including wastewater collection lines, in Questa.

### **Chapter 341 Section 325 Laws 2007**

Section 325. QUESTA WASTEWATER TREATMENT PLANT--EXPAND TO INCLUDE WASTEWATER COLLECTION LINES--CAPITAL PROJECTS FUND.--The department of environment project in Subsection 83 of Section 29 of Chapter 126 of Laws 2004 for a wastewater treatment plant in Questa in Taos county may include planning, designing and constructing wastewater collection lines in Questa.

### **Chapter 341 Section 326 Laws 2007**

Section 326. RED RIVER COMMUNITY FACILITY--CHANGE TO TOWN HALL--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 689 of Section 52 of Chapter 111 of Laws 2006 for a community facility in Red River in Taos county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, equip and furnish the town hall in Red River.

### **Chapter 341 Section 327 Laws 2007**

Section 327. RED RIVER TRANSFER STATION--CHANGE TO WASTEWATER TREATMENT FACILITY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 54 of Section 12 of

Chapter 347 of Laws 2005 for construction of a transfer station in Red River in Taos county shall not be expended for the original purpose but is changed to plan, design, construct, remodel, refurbish, repair, equip and furnish the advanced wastewater treatment facility in Red River.

### **Chapter 341 Section 328 Laws 2007**

Section 328. TAOS MUNICIPAL CHARTER SCHOOL MULTIPURPOSE BUILDING--CHANGE AGENCY AND PURPOSE FOR CLASSROOMS AT THE TAOS BRANCH OF THE UNIVERSITY OF NEW MEXICO--GENERAL FUND.--The unexpended balance of the appropriation to the public education department in Subsection 378 of Section 39 of Chapter 111 of Laws 2006 for a multipurpose building for the Taos municipal charter school 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 and equip classrooms for the center for early care, education and family support at the Taos branch of the university of New Mexico in Taos county.

### **Chapter 341 Section 329 Laws 2007**

Section 329. TAOS SKI VALLEY BUILDING--CHANGE TO EARLY EDUCATION CLASSROOMS FOR THE UNIVERSITY OF NEW MEXICO IN TAOS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division originally authorized in Subsection IIIII of Section 11 of Chapter 118 of Laws 1998 and reauthorized in Laws 2002, Chapter 99, Section 34 to design and construct an administration building at Taos Ski Valley in Taos county shall not be expended for the original or reauthorized purpose but is appropriated to the board of regents of the university of New Mexico to plan, design and construct classrooms for the center for early care, education and family support at the Taos branch of the university of New Mexico in Taos county, and the expenditure period is extended through fiscal year 2011.

### **Chapter 341 Section 330 Laws 2007**

Section 330. YAXCHE LEARNING CENTER IN TAOS--CHANGE TO EARLY EDUCATION CLASSROOMS AT THE TAOS BRANCH OF THE UNIVERSITY OF NEW MEXICO--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 425 of Section 22 of Chapter 429 of Laws 2003 to construct a multiple classroom building for a biolarium at the Yaxche learning center in Taos 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 and equip classrooms for the center for early care, education and family support at the Taos branch of the university of New Mexico in Taos county.

### **Chapter 341 Section 331 Laws 2007**

Section 331. ENCINO COMMUNITY CENTER IMPROVEMENTS--CHANGE AGENCY--GENERAL FUND.--The aging and long-term services department project originally authorized in Subsection 172 of Section 23 of Chapter 347 of Laws 2005 for the Encino senior center and reauthorized in Laws 2006, Chapter 107, Section 176 to construct improvements to the community center in Encino in Torrance county is appropriated to the local government division for that reauthorized purpose.

### **Chapter 341 Section 332 Laws 2007**

Section 332. SANTA FE SCULPTURE GARDEN OF AMERICAN HEROES--CHANGE TO MORIARTY MEMORIAL OF PERPETUAL TEARS STATUE--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 495 of Section 45 of Chapter 347 of Laws 2005 for a sculpture garden of American heroes in Santa Fe county shall not be expended for the original purpose but is changed to purchase and install a statue at the DWI memorial of perpetual tears park in Moriarty in Torrance county.

### **Chapter 341 Section 333 Laws 2007**

Section 333. MORIARTY FINE ARTS FACILITY--CHANGE TO MORIARTY HIGH SCHOOL CULTURAL ARTS CENTER--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 699 of Section 52 of Chapter 111 of Laws 2006 for a fine arts facility in Moriarty in Torrance county shall not be expended for the original purpose but is appropriated to the public education department to plan, design and construct a cultural arts center at Moriarty high school in the Moriarty municipal school district in that county.

### **Chapter 341 Section 334 Laws 2007**

Section 334. CLAYTON ARMORY RE-ROOF--CHANGE TO PROPERTY RENOVATIONS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 247 of Section 22 of Chapter 110 of Laws 2002 for the armory in Clayton in Union county shall not be expended for the original purpose but is changed to renovate any

town-owned building or property in Clayton.

### **Chapter 341 Section 335 Laws 2007**

Section 335. VALENCIA COUNTY SHERIFF'S DEPARTMENT CRIME SCENE UNIT--EXTEND TIME--GENERAL FUND.--The time of the expenditure for the local government division project in Subsection 512 of Section 45 of Chapter 347 of Laws 2005 to purchase and equip a crime scene unit for the county sheriff's department in Valencia county is extended through fiscal year 2008.

## **Chapter 341 Section 336 Laws 2007**

Section 336. VALENCIA COUNTY SHERIFF'S DEPARTMENT DEFIBRILLATORS--EXTEND TIME--CAPITAL PROJECTS FUND.--The time of the expenditure for the local government division project in Subsection 271 of Section 134 of Chapter 126 of Laws 2004 for purchasing defibrillators for the Valencia county sheriff's department is extended through fiscal year 2008.

## **Chapter 341 Section 337 Laws 2007**

Section 337. DAM REHABILITATION STATEWIDE--EXTEND EXPENDITURE PERIOD--SEVERANCE TAX BONDS.--The time of expenditure for the water project fund project originally authorized in Laws 2002, Chapter 110, Section 37 and reauthorized and reappropriated to the office of the state engineer in Laws 2003, Chapter 429, Section 213 for rehabilitation of earthen or concrete dams statewide is extended through fiscal year 2011.

## **Chapter 341 Section 338 Laws 2007**

Section 338. BIG BROTHERS BIG SISTERS FACILITY IN SANTA FE COUNTY--CHANGE TO AGUA FRIA COMMUNITY CENTER IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriations to the local government division in Subsection 507 of Section 22 of Chapter 110 of Laws 2002 and Subsection 616 of Section 22 of Chapter 429 of Laws 2003 for a facility for the big brothers and big sisters program in Santa Fe county shall not be expended for the original purpose but is changed to make improvements to the Agua Fria community center in Santa Fe county.

## **Chapter 341 Section 339 Laws 2007**

Section 339. SHIPROCK DISTRICT COURT AND POLICE DEPARTMENT RENOVATIONS AND ADDITIONS IN THE SHIPROCK CHAPTER--CHANGE TO NAVAJO NATION POLICE DEPARTMENT PARKING LOT--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 44 of Section 43 of Chapter 347 of Laws 2005 for renovations and additions to the Shiprock district court and police department in the Shiprock chapter shall not be expended for the original purpose but is changed to plan, design and construct a Navajo Nation police department parking lot in the Shiprock chapter in San Juan county.

## **Chapter 341 Section 340 Laws 2007**

Section 340. SAN JUAN RIVER DINEH WATER USERS TRACTOR--CHANGE TO SHIPROCK CHAPTER WOMEN AND CHILDREN SHELTER VEHICLES--CHANGE AGENCY--EXTEND EXPENDITURE PERIOD--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 21 of Section 15 of Chapter 347 of Laws 2005 for a tractor for San Juan

river Dineh water users, incorporated, in San Juan county shall not be expended for the original purpose but is appropriated to the local government division to purchase and equip vehicles for use by the women and children shelter in the Shiprock chapter in San Juan county. The time of expenditure is extended through fiscal year 2009.

### **Chapter 341 Section 341 Laws 2007**

Section 341. SUNLAND PARK MUNICIPAL SWIMMING POOL--CHANGE TO SPORTS COMPLEX AND SWIMMING POOL--SEVERANCE TAX BONDS.--The appropriation to the local government division in Subsection 107 of Section 22 of Chapter 110 of Laws 2002 for a municipal swimming pool in Sunland Park in Dona Ana county shall not be expended for the original purpose but is changed to construct a sports complex and swimming pool in Sunland Park. The time of expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 342 Laws 2007**

Section 342. SUNLAND PARK MUNICIPAL COMPLEX--EXPAND PURPOSE TO INCLUDE LAND ACQUISITION--GENERAL FUND.--The local government division project in Subsection 284 of Section 52 of Chapter 111 of Laws 2006 to plan, design and construct a municipal complex in Sunland Park in Dona Ana county may include land acquisition.

### **Chapter 341 Section 343 Laws 2007**

Section 343. ALBUQUERQUE MOOSE LODGE BUILDING PURCHASE AND RENOVATION--CHANGE TO MARTINEZTOWN SANTA BARBARA PARK CONSTRUCTION--EXTEND EXPENDITURE PERIOD--CAPITAL PROJECTS FUND.--The unexpended balance for the local government division project originally authorized in Subsection 7 of Section 37 of Chapter 429 of Laws 2003 and reauthorized in Laws 2004, Chapter 126, Section 70 to purchase and renovate the Moose lodge building on Edith boulevard in Albuquerque in Bernalillo county shall not be expended for the original or reauthorized purpose but is changed to plan, design, construct and equip Santa Barbara park in the Martineztown area of Albuquerque. The time of expenditure is extended through fiscal year 2011.

### **Chapter 341 Section 344 Laws 2007**

Section 344. ALBUQUERQUE ODELIA PARK RENOVATION--CHANGE TO MARTINEZTOWN SANTA BARBARA PARK CONSTRUCTION--EXTEND EXPENDITURE PERIOD--CAPITAL PROJECTS FUND.--The unexpended balance of the appropriation to the local government division in Subsection 19 of Section 34 of Chapter 126 of Laws 2004 for renovations at Odelia park in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct and equip Santa Barbara park in the Martineztown area of Albuquerque. The time of expenditure is extended through fiscal year 2011.

## **Chapter 341 Section 345 Laws 2007**

Section 345. YAXCHE LEARNING CENTER CLASSROOM BUILDING--CHANGE TO TAOS COUNTY ROAD DEPARTMENT EQUIPMENT AND VEHICLES--CHANGE AGENCY--EXTEND EXPENDITURE PERIOD--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 395 of Section 22 of Chapter 429 of Laws 2003 for a classroom building at the Yaxche learning center in Taos county shall not be expended for the original purpose but is appropriated to the department of transportation to purchase equipment, machinery, trucks, trailers and vehicles for the road department in that county. The time of expenditure is extended through fiscal year 2009.

## **Chapter 341 Section 346 Laws 2007**

Section 346. YAXCHE LEARNING CENTER CLASSROOM BUILDING--CHANGE TO TAOS COUNTY ROAD DEPARTMENT EQUIPMENT AND VEHICLES--CHANGE AGENCY--EXTEND EXPENDITURE PERIOD--CAPITAL PROJECTS FUND.--The unexpended balance of the appropriation to the local government division in Subsection 66 of Section 37 of Chapter 429 of Laws 2003 for a classroom building at the Yaxche learning center in Taos county shall not be expended for the original purpose but is appropriated to the department of transportation to purchase equipment, machinery, trucks, trailers and vehicles for the road department in that county. The time of expenditure is extended through fiscal year 2009.

## **Chapter 341 Section 347 Laws 2007**

Section 347. BELEN PUBLIC LIBRARY CONSTRUCTION--EXPAND PURPOSE TO INCLUDE RENOVATION AND EXPANSION--SEVERANCE TAX BONDS.--The unexpended balance for the department of environment project originally authorized in Subsection 58 of Section 12 of Chapter 347 of Laws 2005 and reauthorized and reappropriated to the local government division in Laws 2006, Chapter 107, Section 178 to plan, design, construct, equip and furnish a public library in Belen in Valencia county may also include renovation and expansion of the library.

## **Chapter 341 Section 348 Laws 2007**

Section 348. CIBOLA COUNTY REGION 1 HOUSING AUTHORITY BUILDING--CHANGE TO BLUEWATER TOLTEC IRRIGATION DISTRICT PIPELINE EXTENSION--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 70 of Section 16 of Chapter 347 of Laws 2005 for a building for the region 1 housing authority in Grants in Cibola county shall not be expended for the original purpose but is appropriated to the interstate stream commission for a pipeline extension in Bluewater Village for the Bluewater Toltec irrigation district in Cibola county.

## **Chapter 341 Section 349 Laws 2007**

Section 349. CIBOLA COUNTY REGION 1 HOUSING AUTHORITY BUILDING--CHANGE TO BLUEWATER TOLTEC IRRIGATION DISTRICT PIPELINE EXTENSION--CHANGE AGENCY--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 95 of Section 45 of Chapter 347 of Laws 2005 for a building for the region 1 housing authority in Grants in Cibola county shall not be expended for the original purpose but is appropriated to the interstate stream commission for a pipeline extension in Bluewater Village for the Bluewater Toltec irrigation district in Cibola county.

## **Chapter 341 Section 350 Laws 2007**

Section 350. DUNKEN VOLUNTEER FIRE DEPARTMENT--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The local government division project originally authorized in Subsection 153 of Section 117 of Chapter 126 of Laws 2004 and reauthorized in Laws 2005, Chapter 347, Section 219 and in Laws 2006, Chapter 107, Section 41 for a water well and expansion to the Dunken volunteer fire department in Chaves county may also include improvements to the water systems and pipelines and constructing and equipping additional buildings for that fire department.

## **Chapter 341 Section 351 Laws 2007**

Section 351. DUNKEN VOLUNTEER FIRE DEPARTMENT--EXPAND PURPOSE--GENERAL FUND AND CAPITAL PROJECTS FUND.--The local government division projects in Subsection 167 of Section 52 of Chapter 111 of Laws 2006, Subsection 404 of Section 45 of Chapter 347 of Laws 2005 and Subsection 139 of Section 134 of Chapter 126 of Laws 2004 and reauthorized in Laws 2005, Chapter 347, Section 220 for improvements at the Dunken volunteer fire department in Chaves county may also include improvements to the water systems and pipelines and constructing and equipping additional buildings.

## **Chapter 341 Section 352 Laws 2007**

Section 352. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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Senate Finance Committee Substitute

for Senate Bill 826 as amended,

with emergency clause,

with certificate of correction

Approved April 2, 2007

## **LAWS 2007, CHAPTER 342**

AN ACT

RELATING TO PUBLIC FINANCE; RAISING THE CAP ON RURAL INFRASTRUCTURE LOANS; EXPANDING THE SCOPE OF ELIGIBLE COMMUNITIES; MAKING SOLID WASTE DISPOSAL PROJECTS ELIGIBLE FOR FUNDING; ALLOWING FOR ADMINISTRATIVE COSTS; MAKING AN APPROPRIATION.

ED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

### **Chapter 342 Section 1 Laws 2007**

Section 1. Section 75-1-2 NMSA 1978 (being Laws 1973, Chapter 333, Section 2, as amended by Laws 2001, Chapter 250, Section 1 and by Laws 2001, Chapter 265, Section 1) is amended to read:

"75-1-2. DEFINITIONS.--As used in the Rural Infrastructure Act:

- A. "department" means the department of environment;
- B. "fund" means the rural infrastructure revolving loan fund;
- C. "local authority" means a mutual domestic association or water and sanitation district that supplies water, wastewater or solid waste services to, or a municipality that has, a population of less than twenty thousand or a county with a population of less than two hundred thousand;
- D. "operate and maintain" means all necessary activities, including replacement of equipment or appurtenances to assure the dependable and economical function of a facility in accordance with its intended purpose;
- E. "secretary" means the secretary of environment;
- F. "solid waste facility" includes transfer and convenience facilities, landfills or other equipment or systems used for the processing, transformation, recycling or disposal of solid waste;
- G. "wastewater facility" includes collection lines, pumping equipment, treatment works and disposal piping or process units; and

H. "water supply facility" includes the source of supply of water, pumping equipment, storage facilities, transmission lines, treatment works and distribution systems."

## **Chapter 342 Section 2 Laws 2007**

Section 2. Section 75-1-2.1 NMSA 1978 (being Laws 1983, Chapter 173, Section 3, as amended by Laws 2001, Chapter 250, Section 2 and by Laws 2001, Chapter 265, Section 2) is amended to read:

"75-1-2.1. PURPOSE OF ACT.--The purpose of the Rural Infrastructure Act is to provide financial assistance to local authorities for the planning, design and construction or modification of water supply, wastewater and solid waste facilities."

## **Chapter 342 Section 3 Laws 2007**

Section 3. Section 75-1-3 NMSA 1978 (being Laws 1973, Chapter 333, Section 3, as amended by Laws 2001, Chapter 250, Section 3 and by Laws 2001, Chapter 265, Section 3) is amended to read:

"75-1-3. FUND CREATED--ADMINISTRATION--EMERGENCY FUND.--

A. A special fund is created to be known as the "rural infrastructure revolving loan fund". Money appropriated to the fund or to the department to carry out the provisions of the Rural Infrastructure Act may be used to make loans and grants to local authorities, individually or jointly, for water supply, wastewater or solid waste facilities. Appropriations made to the fund but not expended at the end of the fiscal year for which appropriated shall not revert to the general fund but shall accrue to the credit of the fund. Earnings on the balance in the fund shall be credited to the fund. In addition, when the proceeds from the issuance of severance tax bonds appropriated to the fund are deposited in the state treasury, interest earned on that money during the period from deposit in the state treasury until the actual transfer of the money to the fund shall be credited to the fund.

B. Ten percent of any appropriation to the fund or to the department to carry out the provisions of the Rural Infrastructure Act shall be set aside for emergency grants and loans pursuant to Section 75-1-5 NMSA 1978.

C. All water supply, wastewater and solid waste facilities shall be designed in compliance with the engineering requirements established by the secretary after consulting with and considering the recommendations of the professional engineering societies operating in New Mexico. The secretary shall also establish, by regulation, guidelines for the ranking of projects for top priority based on public health needs.

D. The department shall administer the fund and shall make grant and loan disbursements in accordance with the Rural Infrastructure Act. The secretary shall

adopt regulations to govern the application procedure and requirements for disbursing grants and loans under the Rural Infrastructure Act, including requirements consistent with the purpose of the act for determining the eligibility and priority of local authorities for such grants and loans.

E. Receipts from the repayment of loans, including loans approved by the state board of finance pursuant to Section 75-1-5 NMSA 1978, shall be deposited in the fund by the department, including receipts from the repayment of loans made pursuant to appropriations to carry out the purposes of the Water Supply Construction Act made prior to the effective date of the Rural Infrastructure Act.

F. Money in the fund is appropriated to the department to carry out the provisions of the Rural Infrastructure Act. The department may allocate up to two percent of the total balance in the fund to pay for administrative expenses necessary to carry out the provisions of the Rural Infrastructure Act. Money allocated for administrative expenses shall be placed in a separate administrative account in the fund to be used solely for administrative expenses, and the department shall at the beginning of the fiscal year determine the projected administrative costs for the year and deposit in the account the appropriate amount; provided that the amount to be deposited does not exceed two percent of the total balance in the fund. Money in the account shall remain in the account at the end of a fiscal year.

G. Loans and grants made pursuant to the provisions of the Rural Infrastructure Act shall not be used by the local authority on any project constructed in fulfillment or partial fulfillment of requirements made of a subdivider by the provisions of the Land Subdivision Act or the New Mexico Subdivision Act."

## **Chapter 342 Section 4 Laws 2007**

Section 4. Section 75-1-4 NMSA 1978 (being Laws 1973, Chapter 333, Section 4, as amended by Laws 2001, Chapter 250, Section 4 and by Laws 2001, Chapter 265, Section 4) is amended to read:

"75-1-4. CONDITIONS FOR GRANTS AND LOANS.--

A. Grants and loans shall be made only to local authorities that:

(1) agree to operate and maintain the water supply, wastewater or solid waste facilities so that the facilities will function properly over the structural and material design life, which shall not be less than twenty years;

(2) require the contractor of the construction project to post a performance and payment bond in accordance with the requirements of Section 13-4-18 NMSA 1978;

(3) provide a written assurance, signed by an attorney, that the local authority has proper title, easements and rights of way to the property upon or through which the water supply, wastewater or solid waste facility proposed for funding is to be constructed or extended;

(4) meet the requirements of the financial capability set by the department to assure sufficient revenues to operate and maintain the facility for its useful life and to repay the loan;

(5) pledge sufficient revenues for repayment of the loan, provided that such revenues may by law be pledged for that purpose; and

(6) agree to properly maintain financial records and to conduct an audit of the project's financial records.

B. Except as otherwise provided in the Rural Infrastructure Act, a loan shall be for a period of time not to exceed twenty years. Loans may be interest free or bear an annual interest rate set by the secretary that is at or below market interest rates. The repayment of loans shall be in annual, quarterly or monthly installments, as approved by the department, beginning one year after completion of the project. The repayment of the interest on the loan accumulated during the design and construction of a project may be included in the final loan amount, but it shall not be counted in determining the maximum loan amount.

C. No loan recipient eligible to receive a grant under the Rural Infrastructure Act shall receive grants in any one year totaling more than five hundred thousand dollars (\$500,000).

D. The maximum assistance, including both loans and grants, that a local authority may receive under the Rural Infrastructure Act in any one year is two million dollars (\$2,000,000).

E. Plans and specifications for a water supply, wastewater or solid waste facility construction project shall be approved by the department before grant or loan disbursements to pay for construction costs are made to a local authority. Interim loan disbursements to pay for engineering and other professional services may be made by the department prior to the approval of the plans and specifications.

F. Privately owned water supply, wastewater or solid waste facilities are not eligible for assistance under the Rural Infrastructure Act.

G. Grants and loans shall be made only for eligible items. Eligible items include but are not limited to the costs of engineering feasibility reports, contracted engineering design, inspection of construction, special engineering services, archaeological surveys and contracted construction. The costs of water rights, land, system acquisition, easements and rights of way, refinancing of program loans, legal costs and fiscal

agents' fees are eligible items only for loan funds. Local authority administrative costs shall not be included as eligible items.

H. The department may:

(1) conduct periodic reviews of the operation of a local authority that has received funding from the department;

(2) require the local authority to submit information relevant to the loan to the department;

(3) require the submission of financial reports relevant to the ability of the local authority to repay the loan; and

(4) review and require changes to the rate-setting analysis that supports the loan payments.

I. In the event the local authority fails to make the prescribed loan repayment, the department is authorized to set solid waste, water or wastewater user rates in the area of the local authority's jurisdiction in order to provide sufficient money for repayment of the loan and proper operation and maintenance. Funds sufficient to provide for repayment of the loan and proper operation and maintenance shall be identified through a rate-setting analysis that will ensure enough revenue to cover yearly expenses and emergencies, a reserve fund for nonmajor capital items and equitable pay for staff. The rate-setting analysis may be reviewed and changed on a yearly basis if necessary.

J. The department may enforce its rights as provided by law."

## **Chapter 342 Section 5 Laws 2007**

Section 5. Section 75-1-5 NMSA 1978 (being Laws 1987, Chapter 175, Section 4, as amended by Laws 2001, Chapter 250, Section 5 and by Laws 2001, Chapter 265, Section 5) is amended to read:

"75-1-5. EMERGENCY LOANS AND GRANTS.--Ten percent of the proceeds of each severance tax bond issuance or other appropriation for the purpose of carrying out the provisions of the Rural Infrastructure Act shall be reserved for emergencies and shall be allocated by the department only upon approval of the state board of finance. This amount shall not be deposited in the fund and shall be allocated only for emergency loans and grants. Emergency loans and grants shall be made in accordance with the applicable provisions for loans pursuant to the Rural Infrastructure Act; provided that a grant shall not exceed five hundred thousand dollars (\$500,000). At the end of the third quarter of each fiscal year, the unexpended balance of the reserved amount may be transferred by the department to the fund for use in accordance with the Rural Infrastructure Act."

## **Chapter 342 Section 6 Laws 2007**

Section 6. Section 75-1-6 NMSA 1978 (being Laws 1988, Chapter 28, Section 7, as amended by Laws 2001, Chapter 250, Section 6 and by Laws 2001, Chapter 265, Section 6) is amended to read:

"75-1-6. AVERAGE RESIDENTIAL USER COST REDUCTION GRANTS AND ZERO PERCENT LOANS.--

A. No more than twenty-five percent of the proceeds of each severance tax bond issuance or other appropriation for the purpose of carrying out the provisions of the Rural Infrastructure Act shall be reserved for average residential user cost reduction grants or zero percent loans to reduce average residential user cost to a reasonable level for eligible financially needy loan recipients whose water supply or wastewater facilities serve less than three thousand persons.

B. Average residential user cost reduction grants and zero percent loans shall be allocated by the department in accordance with the provisions for grants and loans pursuant to the Rural Infrastructure Act, provided that an average residential user cost reduction grant or zero percent loan shall not exceed five hundred thousand dollars (\$500,000). Such grants and loans shall reduce only the principal and interest portion of the average residential user cost to a reasonable cost as determined by the department.

C. A zero percent loan or average residential user cost reduction grant shall be approved by the department when, after construction bids have been received, the following conditions have been met by the local authority whose average residential user costs are in need of reduction:

(1) the construction project is designed using the most cost-effective and dependable option;

(2) the system is designed with adequate built-in expansion capacity;

(3) other sources of grant funds have been sought and are not available in a timely manner;

(4) the project cannot feasibly be reduced in scope or phased so as to bring it within available loan funds and within reasonable user cost; and

(5) the local authority's median household income is less than ninety percent of the statewide

non-metropolitan median household income based on the most current federal decennial census."

## **Chapter 342 Section 7 Laws 2007**

Section 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 1058, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 343**

AN ACT

RELATING TO PROPERTY TAXATION; REQUIRING ELECTRONIC TAX SCHEDULES.

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

### **Chapter 343 Section 1 Laws 2007**

Section 1. Section 7-38-35 NMSA 1978 (being Laws 1973, Chapter 258, Section 75, as amended) is amended to read:

"7-38-35. PREPARATION OF PROPERTY TAX SCHEDULE BY ASSESSOR.--

A. After receipt of the rate-setting order and the order imposing the tax, but no later than October 1 of each tax year, the county assessor shall prepare a property tax schedule for all property subject to property taxation in the county. This schedule shall be in a form that shall be made available electronically and contain the information required by regulations of the department and shall contain at least the following information:

(1) the description of the property taxed and, if the property is personal property, its location;

(2) the property owner's name and address and the name and address of any person other than the owner to whom the tax bill is to be sent;

(3) the classification of the property;

(4) the value of the property determined for property taxation purposes;

(5) the tax ratio;

(6) the taxable value of the property;

(7) the amount of any exemption allowed and a statement of the net taxable value of the property after deducting the exemption;

(8) the allocations of net taxable value to the governmental units;

(9) the tax rate in dollars per thousand of net taxable value for all taxes imposed on the property;

(10) the amount of taxes due on the described property; and

(11) the amount of any penalties and interest already imposed and due on the described property.

B. The property tax schedule is a public record and a part of the valuation records."

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Senate Bill 837

Approved April 2, 2007

## **LAWS 2007, CHAPTER 344**

### AN ACT

RELATING TO PUBLIC FINANCE; CREATING A SEPARATE ADMINISTRATIVE FUND FOR THE WASTEWATER FACILITY CONSTRUCTION LOAN ACT; DEFINING TERMS; MAKING AN APPROPRIATION.

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

### **Chapter 344 Section 1 Laws 2007**

Section 1. A new section of the Wastewater Facility Construction Loan Act is enacted to read:

"CLEAN WATER ADMINISTRATIVE FUND--CREATED--USE.--

A. The "clean water administrative fund" is created in the state treasury and shall be administered by the department as agent for the commission. The clean water administrative fund shall be a dedicated fund, and all money in the clean water administrative fund is appropriated to the department to be used solely to administer the wastewater facility construction loan fund, which may include water quality planning and water quality analysis and protection studies if authorized by the department and, if necessary, the United States environmental protection agency. The commission may

establish procedures, adopt regulations and set fees as required to administer the clean water administrative fund in accordance with the Clean Water Act and state law. The clean water administrative fund shall consist of money deposited from:

- (1) loan administration fees collected by the department after the effective date of this section on loans made from the wastewater facility construction loan fund;
- (2) interest earned on investment of the clean water administrative fund;
- (3) grants from the federal government allotted to the state for the clean water administrative fund;
- (4) funds as appropriated by the legislature for administration to implement the provisions of the Clean Water Act; and
- (5) any other public or private money dedicated to the clean water administrative fund.

B. Money in the clean water administrative fund not currently needed for the operation of the fund or otherwise dedicated may be invested according to the provisions of Chapter 6, Article 10 NMSA 1978, and all interest earned on such investments shall be credited to the clean water administrative fund. Money remaining in the clean water administrative fund at the end of any fiscal year shall not revert to the general fund but shall accrue to the credit of the clean water administrative fund.

C. The department shall establish fiscal controls and accounting procedures that are sufficient to ensure proper accounting for clean water administrative fund payments, disbursements and balances and shall provide an annual report and an annual independent audit on the clean water administrative fund to the governor and to the United States environmental protection agency as required by the Clean Water Act."

## **Chapter 344 Section 2 Laws 2007**

Section 2. Section 74-6A-3 NMSA 1978 (being Laws 1986, Chapter 72, Section 3, as amended) is amended to read:

"74-6A-3. DEFINITIONS.--As used in the Wastewater Facility Construction Loan Act:

A. "administrative fee" means a fee assessed and collected by the department from a local authority on each loan and expressed as a percentage per year on the outstanding principal amount of the loan, payable by the borrower on the same date that principal and interest on the loan are due, for deposit in the clean water administrative fund;

B. "commission" means the water quality control commission;

C. "division" or "department" means the department of environment;

D. "financial assistance" means loans, the purchase or refinancing of existing local political subdivision obligations, loan guarantees, credit enhancement techniques to reduce interest on loans and bonds, bond insurance and bond guarantees or any combination of these purposes;

E. "fund" means the wastewater facility construction loan fund;

F. "local authority" means any municipality, county, incorporated county, sanitation district, water and sanitation district or any similar district, recognized Indian tribe or other issuing agency created pursuant to a joint powers agreement acting on behalf of any entity listed in this subsection;

G. "operate and maintain" means to perform all necessary activities, including replacement of equipment or appurtenances, to ensure the dependable and economical function of a wastewater facility in accordance with its intended purpose;

H. "wastewater facility" means a publicly owned system for treating or disposing of sewage or wastes either by surface or underground methods, including any equipment, plant, treatment works, structure, machinery, apparatus or land, in any combination, that is acquired, used, constructed or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation or treatment of water or wastes or for the final disposal of residues resulting from the treatment of water or wastes, such as pumping and ventilating stations, facilities, plants and works, outfall sewers, interceptor sewers and collector sewers and other real or personal property and appurtenances incident to their use or operation. "Wastewater facility" also includes a nonpoint source water pollution control project as eligible under the Clean Water Act;

I. "account" means the wastewater suspense account;

J. "board" means the state board of finance;

K. "bonds" means wastewater bonds or other obligations authorized by the commission to be issued by the board pursuant to the Wastewater Facility Construction Loan Act;

L. "Clean Water Act" means the federal Clean Water Act of 1977 and its subsequent amendments or successor provisions;

M. "federal securities" means direct obligations of the United States, or obligations the principal and interest of which are unconditionally guaranteed by the United States, or an ownership interest in either of the foregoing;

N. "force account construction" means construction performed by the employees of a local authority rather than through a contractor;

O. "holders" means persons who are owners of bonds, whether registered or not, issued pursuant to the Wastewater Facility Construction Loan Act;

P. "issuing resolution" means a formal statement adopted by the board to issue bonds pursuant to the Wastewater Facility Construction Loan Act, including any trust agreement, trust indenture or similar instrument providing terms and conditions for the bonds to be issued; and

Q. "recommending resolution" means a formal statement adopted by the commission recommending to the board that bonds be issued pursuant to the Wastewater Facility Construction Loan Act, including any trust agreement, trust indenture or similar instrument providing the terms and conditions for the bonds that are issued."

### **Chapter 344 Section 3 Laws 2007**

Section 3. Section 74-6A-4 NMSA 1978 (being Laws 1991, Chapter 172, Section 4) is amended to read:

"74-6A-4. FUND CREATED--ADMINISTRATION.--

A. There is created in the state treasury a revolving loan fund to be known as the "wastewater facility construction loan fund", which shall be administered by the division as agent for the commission and operated as a separate account. The commission is authorized to establish procedures and adopt regulations as required to administer the fund in accordance with the Clean Water Act and state law. Any regulations relating to the issuance of bonds and the expenditure of proceeds of bond issues shall be approved by the board. The commission shall, whenever possible, coordinate application procedures and funding cycles with the New Mexico Community Assistance Act.

B. The following shall be deposited directly in the fund:

(1) grants from the federal government or its agencies allotted to the state for capitalization of the fund;

(2) funds as appropriated by the legislature to implement the provisions of the Wastewater Facility Construction Loan Act or to provide state matching funds that are required by the terms of any federal grant under the Clean Water Act;

(3) loan principal, interest and penalty payments if required by the terms of any federal grant under the Clean Water Act;

(4) money transferred from the account as needed to fulfill requirements of the Clean Water Act; and

(5) any other public or private money dedicated to the fund.

C. Money in the fund is appropriated for expenditure by the commission in a manner consistent with the terms and conditions of the federal capitalization grants and the Clean Water Act and may be used:

(1) to provide loans for the construction or rehabilitation of wastewater facilities;

(2) to purchase, refund or refinance obligations incurred by local authorities in the state for wastewater facilities where the obligations were incurred and construction commenced after March 7, 1985;

(3) to guarantee, or purchase insurance for, obligations of local authorities to improve credit market access or reduce interest rates;

(4) to provide a source of revenue or security for the payments of principal and interest on bonds recommended by the commission and issued by the board if the proceeds of the bonds are deposited in the fund to the extent provided in the terms of the federal grant;

(5) to provide loan guarantees for similar revolving funds established by local authorities;

(6) to fund the administrative expenses of the board, the commission and the division necessary to implement the provisions of the Wastewater Facility Construction Loan Act, including but not limited to costs of servicing loans and issuing bonds, fund start-up costs, financial management and legal consulting fees and reimbursement costs for support services from other state agencies; and

(7) to fund other programs for which the federal government authorizes use of wastewater grants or to provide for any other expenditure consistent with the Clean Water Act grant program and state law.

D. Pursuant to regulations adopted by the commission, the division may impose and collect an administrative fee from each local authority that receives financial assistance from the fund, which fee shall not exceed five percent of the total loan amount and which shall be deposited in the clean water administrative fund.

E. Money not currently needed for the operation of the fund or otherwise dedicated may be invested according to the provisions of Chapter 6, Article 10 NMSA 1978, and all interest earned on such investments shall be credited to the fund. Money remaining in the fund at the end of any fiscal year shall not revert to the general fund but shall accrue to the credit of the fund.

F. Acting as agent for the commission, the division shall maintain full authority for the operation of the fund in accordance with applicable federal and state law, including but not limited to preparing the annual intended use plan and ensuring that loan recipients are on the state priority list or otherwise satisfy Clean Water Act requirements.

G. The division shall establish fiscal controls and accounting procedures that are sufficient to ensure proper accounting for fund payments, disbursements and balances and shall provide an annual report and an annual independent audit on the fund to the governor and to the United States environmental protection agency as required by the Clean Water Act."

## **Chapter 344 Section 4 Laws 2007**

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 1060, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 345**

AN ACT

RELATING TO PROCUREMENT; EXEMPTING THE NEW MEXICO STATE FAIR FROM THE PROCUREMENT CODE FOR PURCHASES MADE FOR RESALE OF ITEMS NECESSARY FOR THE UPKEEP OF LIVESTOCK; PROVIDING THAT, IN PREPARING SPECIFICATIONS, THE STATE PURCHASING AGENT OR CENTRAL PURCHASING OFFICE SHALL NOT INCLUDE ANY SPECIFIC COMPONENT THAT WOULD LIMIT COMPETITION; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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

## **Chapter 345 Section 1 Laws 2007**

Section 1. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended by Laws 2005, Chapter 23, Section 2 and by Laws 2005, Chapter 317, Section 2 and by Laws 2005, Chapter 318, Section 1 and also by Laws 2005, Chapter 334, Section 8) is amended to read:

"13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The provisions of the Procurement Code shall not apply to:

A. procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections

13-1-135 through 13-1-137 NMSA 1978;

B. procurement of tangible personal property or services for the governor's mansion and grounds;

C. printing and duplicating contracts involving materials that are required to be filed in connection with proceedings before administrative agencies or state or federal courts;

D. purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;

E. purchases of books and periodicals from the publishers or copyright holders thereof;

F. travel or shipping by common carrier or by private conveyance or to meals and lodging;

G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;

H. contracts with businesses for public school transportation services;

I. procurement of tangible personal property or services, as defined by Sections 13-1-

87 and 13-1-93 NMSA 1978, by the corrections industries division of the corrections department pursuant to rules adopted by the corrections industries commission, which shall be reviewed by the purchasing division of the general services department prior to adoption;

J. minor purchases not exceeding five thousand dollars (\$5,000) consisting of magazine subscriptions, conference registration fees and other similar purchases where prepayments are required;

K. municipalities having adopted home rule charters and having enacted their own purchasing ordinances;

L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;

M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;

N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;

O. contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;

P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

Q. contracts with professional entertainers;

R. contracts and expenditures for litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts;

S. contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in improvement districts pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in county improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978;

T. works of art for museums or for display in public buildings or places;

U. contracts entered into by a local public body with a person, firm, organization, corporation or association or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico for the operation and maintenance of a hospital pursuant to Chapter 3, Article 44 NMSA 1978, lease or operation of a county hospital pursuant to the Hospital Funding Act or operation and maintenance of a hospital pursuant to the Special Hospital District Act;

V. purchases of advertising in all media, including radio, television, print and electronic;

W. purchases of promotional goods intended for resale by the tourism department;

X. procurement by or through the public education department from the federal department of education relating to parent training and information centers designed to increase parent participation, projects and initiatives designed to improve outcomes for students with disabilities and other projects and initiatives relating to the administration of improvement strategy programs pursuant to the federal Individuals with Disabilities Education Act; provided that the exemption applies only to procurement of services not to exceed two hundred thousand dollars (\$200,000);

Y. procurement of services from community rehabilitation programs or qualified individuals pursuant to

the State Use Act;

Z. purchases of products or services for eligible persons with disabilities pursuant to the federal Rehabilitation Act of 1973;

AA. procurement of an agreement, pursuant to Section 9-7-6.5 NMSA 1978, to operate Fort Bayard medical center or to provide and operate in Grant county a replacement facility for Fort Bayard medical center;

BB. contracts for investment advisory services, investment management services or other investment-related services entered into by the educational retirement board, the state investment officer or the retirement board created pursuant to the Public Employees Retirement Act; and

CC. the purchase for resale by the state fair commission of feed and other items necessary for the upkeep of livestock."

## **Chapter 345 Section 2 Laws 2007**

Section 2. Section 13-1-164 NMSA 1978 (being Laws 1984, Chapter 65, Section 137) is amended to read:

"13-1-164. SPECIFICATIONS--MAXIMUM PRACTICABLE COMPETITION.--All specifications shall be drafted so as to ensure maximum practicable competition and fulfill the requirements of state agencies and local public bodies. In preparing specifications, if, in the opinion of the state purchasing agent or central purchasing office, a proposed component is of a nature that would restrict the number of responsible bidders or responsible offerors and thereby limit competition, if practicable, the state purchasing agent or central purchasing office shall draft the specifications

without the component and procure the component by issuing a separate invitation for bids or request for proposals or by entering into a sole source procurement."

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House Bill 650, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 346**

### **AN ACT**

RELATING TO SPECIAL DISTRICTS; CREATING A WATER AND SANITATION GROSS RECEIPTS TAX; ENACTING SECTIONS OF THE NMSA 1978.

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

### **Chapter 346 Section 1 Laws 2007**

Section 1. A new section of the County Local Option Gross Receipts Taxes Act is enacted to read:

"WATER AND SANITATION GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE--RATE--ELECTION--USE OF REVENUE.--

A. An excise tax imposed by a governing body pursuant to this section may be referred to as the "water and sanitation gross receipts tax". The water and sanitation gross receipts tax shall be imposed by a governing body as set forth in this section, contingent upon a majority of the voters voting in an election on the question of whether to impose a water and sanitation gross receipts tax voting in favor of the imposition.

B. Upon receipt of a resolution adopted and submitted by the board of directors of a water and sanitation district that requests the governing body to impose a water and sanitation gross receipts tax on behalf of the water and sanitation district, a governing body shall enact an ordinance imposing a water and sanitation gross receipts tax in that water and sanitation district. The ordinance shall impose the tax at a rate of one-fourth percent on a person engaging in business within the area of the county located within the water and sanitation district for the privilege of engaging in business within that water and sanitation district within the county.

C. The governing body, at the time of enacting an ordinance imposing a water and sanitation gross receipts tax authorized pursuant to Subsection A of this section, shall dedicate the revenue only for the operation of the water and sanitation district for which the tax is imposed. The tax shall be imposed for six years from the date on which the water and sanitation gross receipts tax goes into effect.

D. Within sixty days of the date the ordinance is adopted by the governing body, the governing body shall adopt a resolution calling for an election on the question of whether to impose a water and sanitation gross receipts tax. The question shall be submitted to the voters of the water and sanitation district requesting the county to impose the tax. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. If a majority of the voters voting on the question approves the ordinance imposing the water and sanitation gross receipts tax, then the ordinance shall become effective in accordance with the provisions of the County Local Option Gross Receipts Taxes Act on either January 1 or July 1 following the election approving the imposition of the tax. If the question of imposing the water and sanitation gross receipts tax fails, a resolution from the board of directors of the water and sanitation district initiating the request to the county to impose a water and sanitation gross receipts tax may not again be submitted to the governing body for a period of one year from the date of the election.

E. The proceeds from the water and sanitation gross receipts tax shall be administered by the governing body and disbursed by the county treasurer to the appropriate water and sanitation district in amounts and for the purposes authorized in this section and as set out in the resolution submitted by the board of directors to the governing body. An agreement shall be entered into between the water and sanitation district and the governing body that sets out the responsibilities of both parties regarding administration, distribution and use of the revenue from the water and sanitation gross receipts tax."

## **Chapter 346 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Judiciary Committee Substitute

for House Bill 1032, as amended

Approved April 2, 2007

## **LAWS 2007, CHAPTER 347**

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; ADDING THE CHARTER SCHOOL STUDENT ACTIVITIES PROGRAM UNIT INTO THE PROGRAM COST CALCULATION.

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

## Chapter 347 Section 1 Laws 2007

Section 1. Section 22-8-18 NMSA 1978 (being Laws 1974, Chapter 8, Section 8, as amended) is amended to read:

### "22-8-18. PROGRAM COST CALCULATION--LOCAL RESPONSIBILITY.--

A. The total program units for the purpose of computing the program cost shall be calculated by multiplying the sum of the program units itemized as Paragraphs (1) through (5) in this subsection by the instructional staff training and experience index and adding the program units itemized as Paragraphs (6) through (11) in this subsection. The itemized program units are as follows:

- (1) early childhood education;
- (2) basic education;
- (3) special education, adjusted by subtracting the units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;
- (4) bilingual multicultural education;
- (5) fine arts education;
- (6) size adjustment;
- (7) at-risk program;
- (8) enrollment growth or new district adjustment;
- (9) special education units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;
- (10) national board for professional teaching standards certification; and
- (11) charter school student activities.

B. The total program cost calculated as prescribed in Subsection A of this section includes the cost of early childhood, special, bilingual multicultural, fine arts and vocational education and other remedial or enrichment programs. It is the responsibility of the local school board or governing body of a charter school to determine its priorities in terms of the needs of the community served by that board. Funds generated under the Public School Finance Act are discretionary to local school boards and governing bodies of charter schools, provided that the special program needs as enumerated in this section are met."

## **Chapter 347 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 156

Approved April 2, 2007

## **LAWS 2007, CHAPTER 348**

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING FOR PHYSICAL EDUCATION IN GRADES KINDERGARTEN THROUGH SIX IN ELEMENTARY SCHOOLS; ADDING PHYSICAL EDUCATION PROGRAM UNITS AND CHARTER SCHOOL STUDENT ACTIVITIES PROGRAM UNITS INTO THE PROGRAM COST CALCULATION.

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

### **Chapter 348 Section 1 Laws 2007**

Section 1. A new section of the Public School Finance Act is enacted to read:

"ELEMENTARY PHYSICAL EDUCATION PROGRAM UNITS.--

A. The number of elementary physical education program units is determined by multiplying the number of students in elementary physical education by the cost differential factor of six one-hundredths.

B. As used in this section, "elementary physical education" means eligible physical education programs that serve students in kindergarten through grade six in a public school classified by the department as an elementary school."

### **Chapter 348 Section 2 Laws 2007**

Section 2. Section 22-8-18 NMSA 1978 (being Laws 1974, Chapter 8, Section 8, as amended) is amended to read:

"22-8-18. PROGRAM COST CALCULATION--LOCAL RESPONSIBILITY.--

A. The total program units for the purpose of computing the program cost shall be calculated by multiplying the sum of the program units itemized as Paragraphs (1)

through (6) in this subsection by the instructional staff training and experience index and adding the program units itemized as Paragraphs (7) through (12) in this subsection. The itemized program units are as follows:

- (1) early childhood education;
- (2) basic education;
- (3) special education, adjusted by subtracting the units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;
- (4) bilingual multicultural education;
- (5) fine arts education;
- (6) elementary physical education;
- (7) size adjustment;
- (8) at-risk program;
- (9) enrollment growth or new district adjustment;
- (10) special education units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;
- (11) national board for professional teaching standards certification; and
- (12) charter school student activities.

B. The total program cost calculated as prescribed in Subsection A of this section includes the cost of early childhood, special, bilingual multicultural, fine arts and vocational education and other remedial or enrichment programs. It is the responsibility of the local school board or governing body of a charter school to determine its priorities in terms of the needs of the community served by that board. Funds generated under the Public School Finance Act are discretionary to local school boards and governing bodies of charter schools, provided that the special program needs as enumerated in this section are met."

### **Chapter 348 Section 3 Laws 2007**

Section 3. A new section of Chapter 22, Article 13 NMSA 1978 is enacted to read:

"ELEMENTARY PHYSICAL EDUCATION.--

A. As used in this section:

(1) "eligible students" means students in kindergarten through grade six in a public school classified by the department as an elementary school; and

(2) "physical education" includes programs of education through which students participate in activities related to fitness education and assessment; active games and sports; and development of physical capabilities such as motor skills, strength and coordination.

B. Elementary physical education programs that serve eligible students are eligible for funding if those programs meet academic content and performance standards for elementary physical education programs.

C. In granting approval for funding of elementary physical education programs, the department shall provide that programs are first implemented in public schools that have the highest proportion of students most in need based on the percentage of students eligible for free or reduced-fee lunch or grade-level schools that serve an entire school district and in public schools with available space. If the department determines that an elementary physical education program is not meeting the academic content and performance standards for elementary physical education programs, the department shall notify the school district that the public school's failure to meet the academic content and performance standards will result in the cessation of funding for the following school year. The department shall compile the program results submitted by the school districts each year and make an annual report to the legislative education study committee and the legislature.

D. As they become eligible for elementary physical education program funding, public schools shall submit to the department their elementary physical education program plans that meet academic content and performance standards and other guidelines of the department. At a minimum, the plan shall include the elementary physical education program being taught and an evaluation component. To be eligible for state financial support, an elementary physical education program shall:

(1) provide for the physical education needs of students defined in this section; and

(2) use teachers with a license endorsement for physical education.

E. The department shall annually determine the programs and the consequent number of students in elementary physical education that will receive state financial support in accordance with funding available in each school year."

Approved April 2, 2007

## **LAWS 2007, CHAPTER 349**

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; AMENDING THE FAMILY OPPORTUNITY ACCOUNTS ACT TO CHANGE THE NAME OF THE ACT; CHANGING THE ELIGIBILITY REQUIREMENTS.

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

### **Chapter 349 Section 1 Laws 2007**

Section 1. Section 58-30-1 NMSA 1978 (being Laws 2003, Chapter 362, Section 1, as amended) is amended to read:

"58-30-1. SHORT TITLE.--Chapter 58, Article 30 NMSA 1978 may be cited as the "Individual Development Account Act"."

### **Chapter 349 Section 2 Laws 2007**

Section 2. Section 58-30-2 NMSA 1978 (being Laws 2003, Chapter 362, Section 2, as amended) is amended to read:

"58-30-2. DEFINITIONS.--As used in the Individual Development Account Act:

A. "account owner" means the person in whose name an individual development account is originally established;

B. "allowable use" means a use that complies with the provisions of the Individual Development Account Act, or rules adopted pursuant to that act;

C. "authorized financial institution" means a financial institution authorized by the office to hold and manage individual development accounts and reserve accounts;

D. "director" means the director of the office;

E. "earned income" means wages from employment, payment in lieu of wages, disability payments, tribal distributions or earnings from self-employment or acquired from the provision of services, goods or property, production of goods, management of property or supervision of services;

F. "eligible individual" means a person who meets the criteria for opening an individual development account;

G. "individual development account" means an account established and maintained in an authorized financial institution by an eligible individual participating in an individual development account program pursuant to the provisions of the Individual Development Account Act;

H. "individual development account program" means a program approved by the office to establish and administer individual development accounts and reserve accounts for eligible individuals and to provide financial training required by the office for account owners;

I. "financial institution" means a bank, bank and trust, savings bank, savings association or credit union authorized to be a trustee of individual retirement accounts as defined by federal law, the deposits of which are insured by the federal deposit insurance corporation or the national credit union administration;

J. "indigent" means an individual who, taking into account the present income and the liquid assets and the requirement for other basic necessities of life for the individual and the individual's dependents, is unable to pay the costs of allowable uses as set forth in the Individual Development Account Act;

K. "matching funds" means money deposited in a reserve account to match the withdrawals for allowable uses from an individual development account according to a proportionate formula that complies with rules adopted by the director;

L. "nonprofit organization" means an instrumentality of the state or a local government or an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation pursuant to Section 501(a) of that code;

M. "office" means the office of workforce training and development;

N. "program administrator" means a nonprofit organization or tribe that is selected pursuant to the Individual Development Account Act to offer an individual development account program pursuant to a contract with the director;

O. "reserve account" means an account established pursuant to the Individual Development Account Act in an authorized financial institution in which matching funds are maintained and available for payment for a predetermined allowable use following completion of all program requirements by the account owner; and

P. "tribe" means an Indian nation, tribe or pueblo located in whole or in part within New Mexico."

## **Chapter 349 Section 3 Laws 2007**

Section 3. Section 58-30-3 NMSA 1978 (being Laws 2003, Chapter 362, Section 3, as amended) is amended to read:

"58-30-3. INDIVIDUAL DEVELOPMENT ACCOUNTS.--An individual development account may be established for an eligible individual as part of an individual development account program if the written instrument creating the account sets forth the following:

A. the account owner is an eligible individual according to program requirements at the time the account is established;

B. the individual development account is established and maintained in an authorized financial institution;

C. deposits to an individual development account shall be made in accordance with the rules adopted pursuant to the Individual Development Account Act;

D. withdrawals from an individual development account shall only be made in accordance with the Individual Development Account Act and rules adopted pursuant to that act;

E. the matching amount that will be deposited in the reserve account for each dollar deposited by the account owner in the individual development account; and

F. the financial institution in which an individual development account is held shall not be liable for withdrawals made for uses other than allowable uses."

## **Chapter 349 Section 4 Laws 2007**

Section 4. Section 58-30-4 NMSA 1978 (being Laws 2003, Chapter 362, Section 4, as amended) is amended to read:

"58-30-4. ELIGIBLE INDIVIDUALS.--

A. Except as set forth in Subsections B and C of this section, an eligible individual shall have earned income and shall be:

- (1) eighteen years of age or older;
- (2) a citizen or legal resident of the United States;
- (3) a resident of New Mexico; and
- (4) an indigent.

B. A child in foster care is an eligible individual if the child:

- (1) is fifteen years of age or older;

- (2) is an indigent;
- (3) is a citizen or legal resident of the United States; and
- (4) is a resident of New Mexico.

C. A child is an eligible individual if the child:

- (1) is at least fifteen years of age and not more than eighteen years of age;
- (2) is a member of a family whose members are all indigents;
- (3) is a citizen or legal resident of the United States; and
- (4) is a resident of New Mexico."

## **Chapter 349 Section 5 Laws 2007**

Section 5. Section 58-30-5 NMSA 1978 (being Laws 2003, Chapter 362, Section 5, as amended) is amended to read:

"58-30-5. RESPONSIBILITIES OF THE OFFICE.--

A. The office shall adopt rules implementing the provisions of the Individual Development Account Act.

B. The director shall make an annual report each November to the governor and to the legislative finance committee.

C. The office shall use no more than five percent of the money appropriated to fund the Individual Development Account Act to administer that act."

## **Chapter 349 Section 6 Laws 2007**

Section 6. Section 58-30-6 NMSA 1978 (being Laws 2003, Chapter 362, Section 6, as amended) is amended to read:

"58-30-6. INDIVIDUAL DEVELOPMENT ACCOUNT COUNCIL.--

A. The "individual development account council" is created. The council shall:

- (1) provide oversight of the administration of the Individual Development Account Act;

(2) suggest possible changes that benefit account owners or improve the effectiveness of the individual development account programs throughout the state; and

(3) obtain subject matter expertise through attendance at conferences and workshops related to asset- building strategies.

B. The individual development account council shall meet at least two times in a calendar year to perform its duties.

C. The individual development account council shall consist of the lieutenant governor or the lieutenant governor's designee and eight members appointed by the governor to represent the state geographically. The director or the director's designee shall serve as an ex-officio member of the council.

D. Appointed members of the individual development account council shall receive per diem and mileage pursuant to the Per Diem and Mileage Act for attendance at required meetings and at authorized conferences and workshops and shall receive no other compensation, perquisite or allowance for their participation on the council.

E. The office shall provide adequate staff support and administrative services for the individual development account council."

## **Chapter 349 Section 7 Laws 2007**

Section 7. Section 58-30-7 NMSA 1978 (being Laws 2003, Chapter 362, Section 7, as amended) is amended to read:

### **"58-30-7. ADMINISTRATION OF INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.--**

A. An individual development account may be established for an eligible individual; provided that the money deposited in the account is expended for allowable uses for the account owner or the account owner's spouse or dependents unless otherwise approved by the program administrator.

B. An individual development account program shall be approved and monitored by the director for compliance with applicable law, the Individual Development Account Act and rules adopted pursuant to that act.

C. The program administrator shall establish a reserve account sufficient to meet the matching fund commitments made to all account owners participating in the individual development account program and shall report at least quarterly to each account owner the amount of money available in the reserve account for use by the program administrator to match withdrawals for allowable uses. Notwithstanding any matching commitment otherwise required, the amount of state funds deposited in a

reserve account during a calendar year to match deposits from any single account owner shall not exceed the higher of:

- (1) two thousand dollars (\$2,000); or
- (2) an amount determined by rule of the office.

D. The program administrator shall provide financial education and other necessary training pertinent to allowable uses by account owners, develop partnerships with financial institutions, develop matching funds and manage the operations of an individual development account that is established within the program.

E. An eligible individual may open an individual development account upon verification by the program administrator that the individual maintains no other individual development account.

F. More than one eligible individual per household may hold an individual development account.

G. An account owner shall complete a financial education program prior to the withdrawal of money from the account owner's individual development account unless written approval is obtained from the program administrator."

## **Chapter 349 Section 8 Laws 2007**

Section 8. Section 58-30-8 NMSA 1978 (being Laws 2003, Chapter 362, Section 8, as amended) is amended to read:

"58-30-8. ALLOWABLE USES--WITHDRAWALS FROM INDIVIDUAL DEVELOPMENT ACCOUNTS--FORFEITURE OF MATCHING FUNDS FROM RESERVE ACCOUNT--LOSS OF ELIGIBLE INDIVIDUAL STATUS.--

A. Allowable uses of the money withdrawn from an individual development account are limited to the following:

(1) expenses to attend an approved post-secondary or vocational educational institution, including payment for tuition, books, supplies and equipment required for courses;

(2) costs to acquire or construct a principal residence as defined in rules adopted pursuant to the Individual Development Account Act that is the first principal residence acquired or constructed by the account owner;

(3) costs of major home improvements or repairs on the home of the account owner;

(4) capitalization or costs to start or expand a business, including capital, plant, equipment, operational and inventory expenses, attorney and accountant fees and other costs normally associated with starting or expanding a business;

(5) acquisition of a vehicle necessary to obtain or maintain employment by an account owner or the spouse of an account owner; and

(6) in the case of a deceased account owner, amounts deposited by the account owner and held in an individual development account shall be distributed directly to the account owner's spouse, or if the spouse is deceased or there is no spouse, to a dependent or other named beneficiary of the deceased or if the recipient is eligible to maintain the account, the account and matching funds designated for that account from a reserve account may be transferred and maintained in the name of the surviving spouse, dependent or beneficiary.

B. Unless otherwise approved by the program administrator pursuant to the provisions of Subsection D of this section, account owners qualifying as eligible individuals pursuant to the provisions of Subsection B or C of Section 58-30-4 NMSA 1978 shall not be permitted to withdraw money from an individual development account until such time as the account owners have completed a high school curriculum at a public or accredited private New Mexico high school or received a general educational development certificate.

C. Except as provided in Subsection D of this section, if an account owner withdraws money from an individual development account for a use other than an allowable use, the account owner forfeits a proportionate amount of matching funds from the reserve account, as set forth in the agreement between the program administrator and the account owner.

D. The program administrator may approve a withdrawal by an account owner from an individual development account to be used for a purpose other than an allowable use only for serious emergencies as specified in the rules adopted by the office. For such an approved withdrawal, the proportionate matching funds in the reserve account shall remain in the reserve account for twelve months following the withdrawal and, if an amount equal to the withdrawn money is redeposited in the individual development account within the twelve months, the matching funds shall again be available to match withdrawals for allowable uses.

E. At the request of the account owner and with the written approval of the program administrator, amounts may be withdrawn from the account owner's individual development account and deposited in another individual development account established for an eligible individual who is the account owner's spouse or dependent."

## **Chapter 349 Section 9 Laws 2007**

Section 9. Section 58-30-9 NMSA 1978 (being Laws 2003, Chapter 362, Section 9, as amended) is amended to read:

"58-30-9. APPROVAL OF INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.--

A. The office shall issue a request for proposals from nonprofit organizations or tribes interested in establishing an individual development account program. A proposal submitted in response to the request shall:

(1) describe the geographic area to be served and the potential individuals who will be assisted by the program;

(2) state the amount, if any, of requested distributions of state money from the individual development fund;

(3) describe the source and the amount of private or other public funds, if any, that will be used to supplement the requested distributions from the individual development fund;

(4) state the amount, not to be less than one dollar (\$1.00), that will be deposited in the reserve account for each dollar deposited in an individual development account;

(5) describe the expertise, experience and other qualifications of the proposer and its employees; and

(6) contain such other information as required in the request for proposals and rules of the director.

B. The director shall determine if an interested nonprofit organization or tribe is eligible to be a program administrator, determine the legal sufficiency of submitted proposals, evaluate the proposals and, after consulting with the individual development account council, select the program administrators.

C. In selecting program administrators, the director shall:

(1) ensure that geographically diverse populations throughout New Mexico will be served by individual development account programs; and

(2) ensure that a substantial number of individual development accounts will serve families in which one or more children are living with their biological or adoptive mother or father, or with their legal guardian.

D. The director shall enter into contracts with the selected program administrators.

E. The director shall approve an individual development account program submitted by a program administrator before the program establishes individual development accounts or reserve accounts or provides services required by the Individual Development Account Act to eligible individuals.

F. An individual development account and a reserve account may be established only in an authorized financial institution.

G. The director shall monitor all individual development account programs to ensure that individual development accounts and reserve accounts are being operated according to the contract provisions, federal law, the provisions of the Individual Development Account Act and rules adopted pursuant to that act."

### **Chapter 349 Section 10 Laws 2007**

Section 10. Section 58-30-10 NMSA 1978 (being Laws 2003, Chapter 362, Section 10, as amended) is amended to read:

"58-30-10. TERMINATION OF INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.--

A. An individual development account program shall be terminated if the:

(1) office determines that the program is not being operated pursuant to the provisions of the contract between the program administrator and the director, the Individual Development Account Act or rules adopted pursuant to that act;

(2) provider of the program no longer retains its status as a program administrator; or

(3) program administrator chooses to cease providing an individual development account program.

B. Upon termination of an individual development account program, the director shall administer the program until a qualified program administrator is selected to administer the program. If, after a reasonable period, the director is unable to identify and certify a program administrator to assume the authority to continue to operate a terminated individual development account program, money in a reserve account shall be deposited into the individual development accounts of the account owners for whom the proportionate share of the reserve account was established as of the first day of termination of the program."

### **Chapter 349 Section 11 Laws 2007**

Section 11. Section 58-30-11 NMSA 1978 (being Laws 2003, Chapter 362, Section 11, as amended) is amended to read:

"58-30-11. REPORTING.--A program administrator operating an individual development account program pursuant to the Individual Development Account Act shall report at least annually to the director, as set forth in the rules of the office. Individual account owners shall not be identified in the report. The report shall include:

A. the number of eligible individuals making contributions to individual development accounts;

B. the total money contributed to each individual development account and deposited into each reserve account;

C. the total money in the aggregate deposited in individual development accounts and reserve accounts administered by the individual development account program;

D. the amounts withdrawn from individual development accounts for either allowable uses or for uses other than allowable uses and the amounts withdrawn from reserve accounts;

E. the balances remaining in individual development accounts and reserve accounts; and

F. other information requested by the director to monitor the costs and outcomes of the individual development account program."

## **Chapter 349 Section 12 Laws 2007**

Section 12. Section 58-30-12 NMSA 1978 (being Laws 2003, Chapter 362, Section 12, as amended) is amended to read:

"58-30-12. ACCOUNT FUNDS DISREGARDED FOR PURPOSES OF CERTAIN MEANS-TESTED PROGRAMS.--

A. Money deposited into an individual development account, interest earned on that account and interest and matching funds deposited in a reserve account for the benefit of the account owners shall be disregarded for the purposes of determining eligibility for benefits and for determining benefit amounts pursuant to the New Mexico Works Act.

B. When determining eligibility for benefits and determining benefit amounts due under the food stamp program and medicaid, the human services department shall, pursuant to the authority granted by 7 USCA 2014 (d) and (g), disregard money deposited into an individual development account, interest earned on that account and interest and matching funds deposited in a reserve account for the benefit of the account owners.

C. Money withdrawn from an individual development account for a purpose other than an allowable use shall be counted as a resource for purposes of the New Mexico Works Act or medicaid unless the withdrawal is approved by the program administrator and an amount equal to the amount withdrawn is replaced within the twelve-month allowable time period pursuant to Subsection D of Section 58-30-8 NMSA 1978."

## **Chapter 349 Section 13 Laws 2007**

Section 13. Section 58-30-13 NMSA 1978 (being Laws 2006, Chapter 96, Section 13) is amended to read:

"58-30-13. INDIVIDUAL DEVELOPMENT FUND CREATED.--The "individual development fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not be transferred to any other fund at the end of a fiscal year. Money in the fund is appropriated to the office for the purposes of carrying out the provisions of the Individual Development Account Act. Expenditures shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the director or the director's designee."

## **Chapter 349 Section 14 Laws 2007**

Section 14. Section 27-2B-7 NMSA 1978 (being Laws 1998, Chapter 8, Section 7 and Laws 1998, Chapter 9, Section 7, as amended) is amended to read:

"27-2B-7. FINANCIAL STANDARD OF NEED.--

A. The secretary shall adopt a financial standard of need based upon the availability of federal and state funds and based upon appropriations by the legislature of the available federal temporary assistance for needy families grant made pursuant to the federal act in the following categories:

- (1) cash assistance;
- (2) child care services;
- (3) other services; and
- (4) administrative costs.

The legislature shall determine the actual percentage of each category to be used annually of the federal temporary assistance for needy families grant made pursuant to the federal act.

B. The following income sources are exempt from the gross income test, the net income test and the cash payment calculation:

(1) medicaid;

(2) food stamps;

(3) government-subsidized foster care payments if the child for whom the payment is received is also excluded from the benefit group;

(4) supplemental security income;

(5) government-subsidized housing or housing payments;

(6) federally excluded income;

(7) educational payments made directly to an educational institution;

(8) government-subsidized child care;

(9) earned income that belongs to a person seventeen years of age or younger who is not the head of household;

(10) fifty dollars (\$50.00) of collected child support passed through to the participant by the department's child support enforcement program;

(11) earned income deposited in an individual development account by a member of the benefit group or money received as matching funds for allowable uses by the owner of the individual development account pursuant to the Individual Development Account Act; and

(12) other income sources as determined by the department.

C. The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

D. For a benefit group to be eligible to participate:

(1) gross countable income that belongs to the benefit group must not exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group; and

(2) net countable income that belongs to the benefit group must not equal or exceed the financial standard of need after applying the disregards set out in Paragraphs (1) through (4) of Subsection E of this section.

E. Subject to the availability of state and federal funds, the department shall determine the cash payment of the benefit group by applying the following disregards to

the benefit group's earned income and then subtracting that amount from the benefit group's financial standard of need:

(1) for the first two years of receiving cash assistance or services, if a participant works over the work requirement rate set by the department pursuant to the New Mexico Works Act, one hundred percent of the income earned by the participant beyond that rate;

(2) for the first two years of receiving cash assistance or services, for a two-

parent benefit group in which one parent works over thirty-five hours per week and the other works over twenty-four hours per week, one hundred percent of income earned by each participant beyond the work requirement rate set by the department;

(3) one hundred twenty-five dollars (\$125) of monthly earned income and one-half of the remainder, or for a two-parent family, two hundred twenty-five dollars (\$225) of monthly earned income and one-half of the remainder for each parent;

(4) monthly payments made for child care at a maximum of two hundred dollars (\$200) for a child under two years of age and at a maximum of one hundred seventy-five dollars (\$175) for a child two years of age or older;

(5) costs of self-employment income; and

(6) business expenses.

F. The department may recover overpayments of cash assistance on a monthly basis not to exceed fifteen percent of the financial standard of need applicable to the benefit group."

## **Chapter 349 Section 15 Laws 2007**

Section 15. Section 27-2B-8 NMSA 1978 (being Laws 1998, Chapter 8, Section 8 and Laws 1998, Chapter 9, Section 8, as amended) is amended to read:

"27-2B-8. RESOURCES.--

A. Liquid and nonliquid resources owned by the benefit group shall be counted in the eligibility determination.

B. A benefit group may at a maximum own the following resources:

(1) two thousand dollars (\$2,000) in nonliquid resources;

(2) one thousand five hundred dollars (\$1,500) in liquid resources;

- (3) the value of the principal residence of the participant;
- (4) the value of burial plots and funeral contracts for family members;
- (5) individual development accounts; and
- (6) the value of work-related equipment up to one thousand dollars (\$1,000).

C. Vehicles owned by the benefit group shall not be considered in the determination of resources attributed to the benefit group."

### **Chapter 349 Section 16 Laws 2007**

Section 16. Section 27-2B-10 NMSA 1978 (being Laws 1998, Chapter 8, Section 10 and Laws 1998, Chapter 9, Section 10, as amended) is amended to read:

"27-2B-10. INDIVIDUAL DEVELOPMENT ACCOUNTS.--A participant may establish an individual development account pursuant to the Individual Development Account Act."

### **Chapter 349 Section 17 Laws 2007**

Section 17. Section 27-2D-6 NMSA 1978 (being Laws 2003, Chapter 317, Section 6, as amended) is amended to read:

"27-2D-6. RESOURCES.--

A. Liquid and nonliquid resources owned by the benefit group shall be counted in the eligibility determination.

B. A benefit group may at a maximum own the following resources:

- (1) two thousand dollars (\$2,000) in nonliquid resources;
- (2) one thousand five hundred dollars (\$1,500) in liquid resources;
- (3) the value of the principal residence of the participant;
- (4) the value of burial plots and funeral contracts for family members;
- (5) individual development accounts; and
- (6) the value of work-related equipment up to one thousand dollars (\$1,000).

C. Vehicles owned by the benefit group shall not be considered in the determination of resources attributed to the benefit group."

## **Chapter 349 Section 18 Laws 2007**

Section 18. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Judiciary Committee Substitute

for House Bill 140, as amended

Approved April 4, 2007

## **LAWS 2007, CHAPTER 350**

AN ACT

RELATING TO PUBLIC BENEFITS; AMENDING SECTIONS OF THE NEW MEXICO WORKS ACT AND THE EDUCATION WORKS ACT TO COMPLY WITH CHANGES IN FEDERAL LAW; MODIFYING ELIGIBILITY FOR BENEFITS, WORK REQUIREMENTS AND SUPERVISION FOR CLIENTS IN THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM AND OTHER RELATED PROGRAMS.

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

## **Chapter 350 Section 1 Laws 2007**

Section 1. Section 27-2B-3 NMSA 1978 (being Laws 1998, Chapter 8, Section 3 and Laws 1998, Chapter 9, Section 3, as amended by Laws 2003, Chapter 311, Section 2 and by Laws 2003, Chapter 432, Section 2) is amended to read:

"27-2B-3. DEFINITIONS.--As used in the New Mexico Works Act:

A. "applicant" means a person applying for cash assistance on behalf of a benefit group;

B. "benefit group" means a pregnant woman or a group of people that includes a dependent child, all of that dependent child's full, half or adopted siblings or stepsiblings living with the dependent child's parent or relative within the fifth degree of consanguinity and the parent with whom the children live;

C. "cash assistance" means cash payments funded by the temporary assistance for needy families block grant pursuant to the federal act and by state funds;

D. "department" means the human services department;

E. "dependent child" means a natural child, adopted child, stepchild or ward who is:

(1) seventeen years of age or younger;

(2) eighteen years of age and is enrolled in high school; or

(3) between eighteen and twenty-two years of age and is receiving special education services regulated by the public education department;

F. "director" means the director of the income support division of the department;

G. "earned income" means cash or payment in kind that is received as wages from employment or payment in lieu of wages; and earnings from self-employment or earnings acquired from the direct provision of services, goods or property, production of goods, management of property or supervision of services;

H. "federal act" means the federal Social Security Act and rules promulgated pursuant to the Social Security Act;

I. "federal poverty guidelines" means the level of income defining poverty by family size published annually in the federal register by the United States department of health and human services;

J. "immigrant" means alien as defined in the federal act;

K. "parent" means natural parent, adoptive parent, stepparent or legal guardian;

L. "participant" means a recipient of cash assistance or services or a member of a benefit group who has reached the age of majority;

M. "person" means an individual;

N. "secretary" means the secretary of the department;

O. "services" means child care assistance; payment for employment-related transportation costs; job search assistance; employment counseling; employment, education and job training placement; one-time payment for necessary employment-related costs; case management; or other activities whose purpose is to assist transition into employment;

P. "unearned income" means old age, survivors and disability insurance; railroad retirement benefits; veterans administration compensation or pension; military retirement; pensions, annuities and retirement benefits; lodge or fraternal benefits; shared shelter payments; settlement payments; individual Indian money; child support; unemployment compensation benefits; union benefits paid in cash; gifts and contributions; and real property income;

Q. "vehicle" means a conveyance for the transporting of individuals to or from employment, for the activities of daily living or for the transportation of goods; "vehicle" does not include any boat, trailer or mobile home used as a principal place of residence; and

R. "vocational education" means an organized educational program that is directly related to the preparation of a person for employment in a current or emerging occupation requiring training other than a baccalaureate or advanced degree. Vocational education must be provided by an educational or a training organization, such as a vocational-technical school, community college, post-secondary educational institution or proprietary school."

## **Chapter 350 Section 2 Laws 2007**

Section 2. Section 27-2B-4 NMSA 1978 (being Laws 1998, Chapter 8, Section 4 and Laws 1998, Chapter 9, Section 4, as amended by Laws 2001, Chapter 295, Section 2 and by Laws 2001, Chapter 326, Section 2) is amended to read:

### **"27-2B-4. APPLICATION--RESOURCE PLANNING SESSION--INDIVIDUAL RESPONSIBILITY PLANS--PARTICIPATION AGREEMENT--REVIEW PERIODS.--**

A. Application for cash assistance or services shall be made to the department. The application shall be in writing or reduced to writing in the manner and on the form prescribed by the department. The application shall be made under oath by an applicant having custody of or residing with a dependent child who is a benefit group member and shall contain a statement of the age of the child, residence, a complete statement of the amount of property in which the applicant has an interest, a statement of all income that the applicant and other benefit group members have at the time of the filing of the application and other information required by the department.

B. The department shall assist an applicant in completing the application for cash assistance or services and shall evaluate an applicant to determine eligibility for all department programs for which the applicant is eligible. The department shall process all expedited food stamp applications within two business days of submission, and the department shall deliver expedited food stamps to an eligible applicant within seven days of the application.

C. At the time of application for cash assistance and services, an applicant and the department shall identify everyone who is to be counted in the benefit group. Once

an application is approved, the participant shall advise the department if there are any changes in the membership of the benefit group.

D. No later than thirty days after an application is filed, the department shall provide to an applicant a resource planning session to ascertain the applicant's immediate needs, assess financial and nonfinancial options, make referrals and act on the application.

E. No later than five days after an application is approved, the department shall provide reimbursement for child care.

F. Whenever the department receives an application for assistance, a verification and record of the applicant's circumstances shall promptly be made to ascertain the facts supporting the application and to obtain other information required by the department. The verification may include a visit to the home of the applicant, as long as the department gives adequate prior notice of the visit to the applicant.

G. No later than fifteen days after an application is approved, the department shall assess the education, skills, prior work experience and employability of the participant.

H. After the initial assessment of skills, the department shall work with the participant to develop an individual responsibility plan that:

(1) sets forth an employment goal for the participant and a plan for moving the participant into employment;

(2) sets forth obligations of the participant that may include a requirement that the participant attend school, maintain certain grades and attendance, keep the participant's school-age children in school, immunize the participant's children or engage in other activities that will help the participant become and remain employed;

(3) is designed to the greatest extent possible to move the participant into whatever employment the participant is capable of handling and to provide additional services as necessary to increase the responsibility and amount of work the participant will handle over time;

(4) describes the services the department may provide so that the participant may obtain and keep employment; and

(5) may require the participant to participate in appropriate services, such as substance abuse, domestic violence or mental health services.

I. The participant and the department shall sign the participant's individual responsibility plan. The department shall not allow a participant to decline to participate in developing an individual responsibility plan. The department shall not waive the

requirement that a participant develop an individual responsibility plan. The department shall emphasize the importance of the individual responsibility plan to the participant.

J. If a participant does not develop an individual responsibility plan, refuses to sign an individual responsibility plan or refuses to attend semiannual reviews of an individual responsibility plan, the participant shall be required to enter into a conciliation process pursuant to Subsection C of Section 27-2B-14 NMSA 1978. If the participant persists in noncompliance with the individual responsibility plan process after the conciliation process, the participant shall be subject to sanctions pursuant to Section 27-2B-14 NMSA 1978.

K. The participant shall also sign a participation agreement that designates the number of hours that the participant must participate in work activities to meet participation standards.

L. The department shall review the current financial eligibility of a benefit group when the department reviews food stamp eligibility.

M. The department shall meet semiannually with a participant to review and revise the participant's individual responsibility plan.

N. The department shall develop a complaint procedure to address issues pertinent to the delivery of services and other issues relating to a participant's individual responsibility plan."

## **Chapter 350 Section 3 Laws 2007**

Section 3. Section 27-2B-5 NMSA 1978 (being Laws 1998, Chapter 8, Section 5 and Laws 1998, Chapter 9, Section 5, as amended) is amended to read:

"27-2B-5. WORK REQUIREMENTS--WORK PARTICIPATION RATES.--

A. The following qualify as work activities:

- (1) unsubsidized employment, including self-employment;
- (2) subsidized private sector employment, including self-employment;
- (3) subsidized public sector employment;
- (4) work experience;
- (5) on-the-job training;
- (6) job search and job readiness;

(7) community service programs;

(8) vocational education;

(9) job skills training activities directly related to employment;

(10) education directly related to employment;

(11) satisfactory attendance at a secondary school or course of study leading to a certificate of general equivalency in the case of a participant who has not completed secondary school or received such a certificate; and

(12) the provision of child care services to a participant who is participating in a community service program.

B. The department shall recognize community service programs and job training programs that are operated by an Indian nation, tribe or pueblo.

C. The department may not require a participant to work more than four hours per week over the work requirement rate set pursuant to the federal act.

D. The department shall require a parent, caretaker or other adult who is a member of a benefit group to engage in a work activity.

E. Where best suited for the participant to address barriers, the department may require the following work activities:

(1) participating in parenting classes, money management classes or life skills training;

(2) participating in a certified alcohol or drug addiction program;

(3) in the case of a homeless benefit group, finding a home;

(4) in the case of a participant who is a victim of domestic violence residing in a domestic violence shelter or receiving counseling or treatment or participating in criminal justice activities directed at prosecuting the domestic violence perpetrator for no longer than twenty-four weeks; and

(5) in the case of a participant who does not speak English, participating in a course in English as a second language.

F. Subject to the availability of funds, the department in cooperation with the labor department, Indian affairs department and other appropriate state agencies may develop projects to provide for the placement of participants in work activities, including the following:

- (1) participating in unpaid internships with private and government entities;
- (2) refurbishing publicly assisted housing;
- (3) volunteering at a head start program or a school;
- (4) weatherizing low-income housing; and

(5) restoring public sites and buildings, including monuments, parks, fire stations, police buildings, jails, libraries, museums, auditoriums, convention halls, hospitals, buildings for administrative offices and city halls.

G. If a participant is engaged in full-time vocational education studies or an activity set out in Paragraphs (9) through (11) of Subsection A of this section, the participant shall engage in another work activity at the same time. Additionally, for two-parent families that receive federally funded child-care assistance, the participant's spouse shall engage in a work activity set out in Paragraphs (1) through (5) or (7) of Subsection A of this section unless the participant suffers from a temporary or complete disability that bars the participant from engaging in a work activity or the participant is barred from engaging in a work activity because the participant provides sole care for a disabled person.

H. A participant engaged in vocational education studies shall make reasonable efforts to obtain a loan, scholarship, grant or other assistance to pay for costs and tuition, and the department shall disregard those amounts in the eligibility determination.

I. For as long as the described conditions exist, the following are exempt from the work requirement:

(1) a participant barred from engaging in a work activity because the participant is temporarily or completely disabled;

(2) a participant over age sixty;

(3) a participant barred from engaging in a work activity because the participant provides the sole care for a disabled person;

(4) a single custodial parent caring for a child less than twelve months old for a lifetime total of twelve months;

(5) a single custodial parent caring for a child under six years of age if the parent is unable to obtain child care for one or more of the following reasons:

(a) unavailability of appropriate child care within a reasonable distance from the parent's home or work as defined by the children, youth and families department;

(b) unavailability or unsuitability of informal child care by a relative under other arrangements as defined by the children, youth and families department; or

(c) unavailability of appropriate and affordable formal child-care arrangements as defined by the children, youth and families department;

(6) a pregnant woman during her last trimester of pregnancy;

(7) a participant prevented from working by a temporary emergency or a situation that precludes work participation for thirty days or less;

(8) a participant who demonstrates by reliable medical, psychological or mental reports, court orders or police reports that family violence or threat of family violence effectively bars the participant from employment; and

(9) a participant who demonstrates good cause of the need for the exemption.

J. As a condition of the exemptions identified in Subsection I of this section, the department may establish participation requirements specific to the participant's condition or circumstances, such as substance abuse services, mental health services, domestic violence services, pursuit of disability benefits, job readiness or education directly related to employment. The activities are established to improve the participant's capacity to improve income and strengthen family support."

## **Chapter 350 Section 4 Laws 2007**

Section 4. Section 27-2B-6 NMSA 1978 (being Laws 1998, Chapter 8, Section 6 and Laws 1998, Chapter 9, Section 6, as amended by Laws 2003, Chapter 311, Section 3 and Laws 2003, Chapter 432, Section 3) is amended to read:

"27-2B-6. DURATIONAL LIMITS.--

A. Pursuant to the federal act, on or after July 1, 1997 a participant may receive federally funded cash assistance or state-funded cash assistance and services pursuant to the New Mexico Works Act for up to sixty months.

B. During a participant's semi-annual review, the department shall examine the participant's progress to determine if the participant has successfully completed an educational or training program or increased the number of hours the participant is working as required by the federal act. The department may refer the participant to alternative work activities or provide additional services to address barriers to employment facing the participant.

C. Up to twenty percent of the population of participants may be exempted from the sixty-month durational limit set out in Subsection A of this section because of hardship or because those participants are battered or subject to extreme cruelty.

D. For the purposes of this section, a participant has been battered or subjected to extreme cruelty if the participant can demonstrate by reliable medical, psychological or mental reports, court orders or police reports that the participant has been subjected to and currently is affected by:

- (1) physical acts that result in physical injury;
- (2) sexual abuse;
- (3) being forced to engage in nonconsensual sexual acts or activities;
- (4) threats or attempts at physical or sexual abuse;
- (5) mental abuse; or

(6) neglect or deprivation of medical care except when the deprivation is based by mutual consent on religious grounds.

E. For the purposes of this section, a hardship exception applies to a person who demonstrates through reliable medical, psychological or mental reports, social security administration records, court orders, police reports or department records that the person is a person:

- (1) who is barred from engaging in a work activity because the person is temporarily or completely disabled;
- (2) who is the sole provider of home care to an ill or disabled family member;
- (3) whose ability to be gainfully employed is affected by domestic violence;
- (4) whose application for supplemental security income is pending in the application or appeals process and who:
  - (a) meets the criteria of Paragraph (1) of this subsection; or
  - (b) was granted a waiver from the work requirement or was granted a limited participation requirement pursuant to Paragraph (1) of Subsection I of Section 27-2B-5 NMSA 1978 in the last twenty-four months; or
- (5) who otherwise qualifies for a hardship exception as defined by the department.

F. Pursuant to the federal act, the department shall not count a month of receipt of cash assistance or services toward the sixty-month durational limit if during the time of receipt the participant:

(1) was a minor and was not the head of a household or married to the head of a household; or

(2) lived in Indian country, as defined in the federal act, if the most reliable data available with respect to the month indicate that at least fifty percent of the adults living in Indian country or in the village were not employed."

## **Chapter 350 Section 5 Laws 2007**

Section 5. Section 27-2B-7 NMSA 1978 (being Laws 1998, Chapter 8, Section 7 and Laws 1998, Chapter 9, Section 7, as amended) is amended to read:

"27-2B-7. FINANCIAL STANDARD OF NEED.--

A. The secretary shall adopt a financial standard of need based upon the availability of federal and state funds and based upon appropriations by the legislature of the available federal temporary assistance for needy families grant made pursuant to the federal act in the following categories:

- (1) cash assistance;
- (2) child care services;
- (3) other services; and
- (4) administrative costs.

The legislature shall determine the actual percentage of each category to be used annually of the federal temporary assistance for needy families grant made pursuant to the federal act. Within the New Mexico works program, the department may provide cash assistance or services to specific categories of benefit groups from general funds appropriated to cash assistance or services. The department may exclude these funds from temporary assistance for needy families maintenance of effort. The department shall identify alternative state spending to claim as maintenance of effort and make necessary arrangements to allow reporting of that spending.

B. The following income sources are exempt from the gross income test, the net income test and the cash payment calculation:

- (1) medicaid;
- (2) food stamps;

(3) government-subsidized foster care payments if the child for whom the payment is received is also excluded from the benefit group;

(4) supplemental security income;

(5) government-subsidized housing or housing payments;

(6) federally excluded income;

(7) educational payments made directly to an educational institution;

(8) government-subsidized child care;

(9) earned income that belongs to a person seventeen years of age or younger who is not the head of household;

(10) child support passed through to the participant by the child support enforcement division of the department in the following amounts:

(a) fifty dollars (\$50.00) per month through December 31, 2008;

and

(b) no later than January 1, 2009, a minimum of one hundred dollars (\$100) for one child and two hundred dollars (\$200) for two or more children as based on the availability of state or federal funds;

(11) earned income deposited in a family opportunity account by a member of the benefit group or money received as matching funds for allowable uses by the owner of the family opportunity account pursuant to the Family Opportunity Accounts Act; and

(12) other income sources as determined by the department.

C. The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

D. For a benefit group to be eligible to participate:

(1) gross countable income that belongs to the benefit group must not exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group; and

(2) net countable income that belongs to the benefit group must not equal or exceed the financial standard of need after applying the disregards set out in Paragraphs (1) through (4) of Subsection E of this section.

E. Subject to the availability of state and federal funds, the department shall determine the cash payment of the benefit group by applying the following disregards to the benefit group's earned income and then subtracting that amount from the benefit group's financial standard of need:

(1) one hundred twenty-five dollars (\$125) of monthly earned income and one-half of the remainder, or for a two-parent family, two hundred twenty-five dollars (\$225) of monthly earned income and one-half of the remainder for each parent;

(2) monthly payments made for child care at a maximum of two hundred dollars (\$200) for a child under two years of age and at a maximum of one hundred seventy-five dollars (\$175) for a child two years of age or older;

(3) costs of self-employment income; and

(4) business expenses.

F. In addition to the disregards specified in Subsection E of this section, and between the effective date of this 2007 act and June 30, 2008, or until implementation of the employment retention and advancement bonus program described in Subsection G of this section, the department shall apply the following income disregards to the benefit group's earned income and then subtract that amount from the benefit group's financial standard of need:

(1) for the first two years of receiving cash assistance or services, if a participant works over the work requirement rate set by the department pursuant to the New Mexico Works Act, one hundred percent of the income earned by the participant beyond that rate; and

(2) for the first two years of receiving cash assistance or services, for a two-

parent benefit group in which one parent works over thirty-five hours per week and the other works over twenty-four hours per week, one hundred percent of income earned by each participant beyond the work requirement rate set by the department.

G. No later than July 1, 2008, New Mexico employment incentives shall be as follows:

(1) the department shall implement an employment retention and advancement bonus program based on availability of state or federal funds that includes financial incentives to encourage a participant to:

(a) leave the New Mexico works program and move into an employment retention and advancement bonus incentive program;

(b) maintain a minimum of thirty hours per week employment; and

(c) leave the employment retention and advancement bonus incentive program due to increased earnings above the income eligibility standard and continue employment;

(2) the employment retention and advancement bonus incentive program shall provide a cash bonus and employment services to a former participant who, upon application:

(a) is currently engaged in paid work for a minimum of thirty hours per week;

(b) has received cash assistance for at least three months and one of the last three months;

(c) has had a gross income of less than one hundred fifty percent of the federal poverty guidelines; and

(d) has participated in the employment retention and advancement bonus incentive program for no longer than eighteen months;

(3) for continued eligibility in the employment retention and advancement bonus incentive program, a participant shall:

(a) be engaged in paid work for thirty hours per week for at least one of the past three months;

(b) be engaged in paid work for thirty hours per week for at least four of the past six months;

(c) have had gross income less than one hundred fifty percent of the federal poverty guidelines; and

(d) have participated in the program no more than eighteen months;

(4) the department shall provide employment services to assist participants to access available work supports, maintain employment and advance to higher-paying employment; and

(5) the department shall:

(a) establish the amount of bonus to be paid to participants in the employment retention and advancement bonus program based on availability of state and federal funds;

(b) propose rules to implement the employment retention and advancement bonus incentive program of this subsection no later than January 1, 2008; and

(c) begin implementation of the employment retention and advancement bonus incentive program of this subsection no later than July 1, 2008.

H. The department may recover overpayments of cash assistance on a monthly basis not to exceed fifteen percent of the financial standard of need applicable to the benefit group.

I. Based upon the availability of funds and in accordance with the federal act, the secretary may establish a separate temporary assistance for needy families cash assistance program that may waive certain New Mexico Works Act requirements due to a specific situation."

## **Chapter 350 Section 6 Laws 2007**

Section 6. Section 27-2B-11 NMSA 1978 (being Laws 1998, Chapter 8, Section 11 and Laws 1998, Chapter 9, Section 11, as amended by Laws 2002, Chapter 5, Section 1 and by Laws 2002, Chapter 6, Section 1) is amended to read:

"27-2B-11. INELIGIBILITY.--

A. The following are ineligible to be members of a benefit group:

(1) an inmate or patient of a nonmedical institution;

(2) a person who, in the two years preceding application, assigned or transferred real property unless the person:

(a) received or receives a reasonable return;

(b) attempted to or attempts to receive a reasonable return; or

(c) attempted to or attempts to regain title to the real property;

(3) a minor unmarried parent who has not successfully completed a high school education and who has a child at least twelve weeks of age in the minor unmarried parent's care unless the minor unmarried parent:

(a) participates in educational activities directed toward the attainment of a high school diploma or its equivalent; or

(b) participates in an alternative educational or training program that has been approved by the department;

(4) a minor unmarried parent who is not residing in a place of residence maintained by a parent, legal guardian or other adult relative unless the department:

(a) refers or locates the minor unmarried parent to a second-chance home, maternity home or other appropriate adult-supervised supportive living arrangement, and takes into account the needs and concerns of the minor unmarried parent;

(b) determines that the minor unmarried parent has no parent, legal guardian or other appropriate adult relative who is living or whose whereabouts are known;

(c) determines that a minor unmarried parent is not allowed to live in the home of a living parent, legal guardian or other appropriate adult relative;

(d) determines that the minor unmarried parent is or has been subjected to serious physical or emotional harm, sexual abuse or exploitation in the home of the parent, legal guardian or other appropriate adult relative;

(e) finds that substantial evidence exists of an act or a failure to act that presents an imminent or serious harm to the minor unmarried parent and the child of the minor unmarried parent if they live in the same residence with the parent, legal guardian or other appropriate adult relative; or

(f) determines that it is in the best interest of the unmarried minor parent to waive this requirement;

(5) a minor child who has been absent or is expected to be absent from the home for forty-five days;

(6) a person who does not provide a social security number or who refuses to apply for one;

(7) a person who is not a resident of

New Mexico;

(8) a person who fraudulently misrepresented residency to receive assistance in two or more states simultaneously, except that the person shall be ineligible only for ten years;

(9) a person who is a fleeing felon or a probation and parole violator; and

(10) a person concurrently receiving supplemental security income, tribal temporary assistance for needy families or bureau of Indian affairs general assistance.

B. For the purposes of this section, "second-chance home" means an entity that provides a supportive and supervised living arrangement to a minor unmarried parent where the minor unmarried parent is required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote long-term economic independence and the well-being of children.

C. Pursuant to the authorization provided to the states in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 21 U.S.C. Section 862a(d)(1)(A), New Mexico elects to exempt all persons domiciled in the state from application of 21 U.S.C. Section 862a(d)(1)(A) concerning the restriction of eligibility for benefits on the basis of a conviction for distribution of a controlled substance."

## **Chapter 350 Section 7 Laws 2007**

Section 7. Section 27-2B-19 NMSA 1978 (being Laws 1998, Chapter 8, Section 19 and Laws 1998, Chapter 9, Section 19) is amended to read:

"27-2B-19. SUBSIDIZED EMPLOYMENT.--

A. The department may administer a wage subsidy program based on availability of federal and state funds.

B. The wage subsidy program shall include the following requirements:

(1) participating employers shall hire participants who receive cash assistance for subsidized job slots that are full time and that offer a reasonable possibility of unsubsidized employment after the subsidy period;

(2) participating employers shall receive a subsidy for up to twelve months;

(3) subsidized employees shall not be required to work in excess of forty hours per week;

(4) subsidized employees shall be paid a wage that is substantially like the wage paid for similar jobs with the employer with appropriate adjustments for experience and training but not less than the federal minimum hourly wage;

(5) subsidized employment does not impair an existing contract or collective bargaining agreement;

(6) subsidized employment does not displace currently employed workers or fill positions that are vacant due to a layoff;

(7) wage subsidy employers shall:

(a) maintain health, safety and working conditions at or above levels generally acceptable in the industry and not less than those of comparable jobs offered by the employer;

(b) provide on-the-job training necessary for subsidized employees to perform their duties;

(c) sign an agreement for each placement outlining the specific job offered to a subsidized employee and agree to abide by all of the requirements of the program;

(d) provide workers' compensation coverage for each subsidized employee; and

(e) provide the subsidized employee with benefits equal to those for new employees or as required by state and federal law, whichever is greater;

(8) the department shall determine whether a participant is eligible to be a subsidized employee by establishing:

(a) that the participant has sufficient work experience to obtain unsubsidized employment;

(b) that the participant has completed an employment preparation program; or

(c) that the department or participant may benefit from this employment strategy;

(9) a disregard of income earned by the subsidized employee in the subsidized job shall be applied in the eligibility determination for services;

(10) the department shall suspend regular payments of cash assistance to the benefit group for the calendar month in which an employer makes the first subsidized wage payment to a subsidized employee who is otherwise eligible for cash assistance and food stamps;

(11) the department shall pay employers each month, from cash assistance;

(12) a subsidized employee shall be eligible for supplemental payments if the net monthly full-time wage paid to the subsidized employee is less than the monthly total of the cash assistance the participant is eligible to receive. The department shall authorize issuance of a supplemental cash payment to compensate for the deficit. To determine if a deficit exists, the department shall adopt an equivalency scale that is adjustable to household size and other factors; and

(13) the department shall determine monthly and pay in advance supplemental payments to eligible subsidized employees. In calculating the payment, the department shall assume that the subsidized employee will work forty hours per week during the month unless an employer provides information that the number of hours to be worked by the subsidized employee will be reduced.

C. For the purposes of this section, "benefits" includes health care coverage, paid sick leave and holiday and vacation pay.

D. For the purposes of this section, "subsidized employee" means a participant engaged in a subsidized employment activity.

E. For the purposes of this section, "net monthly full-time wage" means a subsidized employee's wages after the required payroll deductions."

## **Chapter 350 Section 8 Laws 2007**

Section 8. Section 27-2D-2 NMSA 1978 (being Laws 2003, Chapter 317, Section 2) is amended to read:

"27-2D-2. DEFINITIONS.--As used in the Education Works Act:

A. "applicant" means a person applying for cash assistance on behalf of a benefit group;

B. "benefit group" means a pregnant woman or a group of people that includes a dependent child, all of that dependent child's full, half, step- or adopted siblings living with the dependent child's parent or relative within the fifth degree of consanguinity and the parent with whom the children live;

C. "cash assistance" means cash payments distributed by the department pursuant to the Education Works Act;

D. "department" means the human services department;

E. "dependent child" means a natural, adopted step-child or ward who is:

(1) seventeen years of age or younger;

(2) eighteen years of age and is enrolled in high school; or

(3) between eighteen and twenty-two years of age and is receiving special education services regulated by the public education department;

F. "director" means the director of the income support division of the department;

G. "earned income" means cash or payment in kind that is received as wages from employment or payment in lieu of wages; and earnings from self-employment or earnings acquired from the direct provision of services, goods or property, production of goods, management of property or supervision of services;

H. "education works program" means the cash assistance, activities and services available to a recipient pursuant to the Education Works Act;

I. "federal act" means the federal Social Security Act and rules promulgated pursuant to the Social Security Act;

J. "federal poverty guidelines" means the level of income defining poverty by family size published annually in the federal register by the United States department of health and human services;

K. "parent" means natural parent, adoptive parent, stepparent or legal guardian;

L. "person" means an individual;

M. "recipient" means a person who receives cash assistance or services or a member of a benefit group who has reached the age of majority;

N. "secretary" means the secretary of human services;

O. "services" means child-care assistance; payment for education- or employment-

related transportation costs; job search assistance; employment counseling; employment, education and job training placement; an annual payment for education-related costs; case management; or other activities whose purpose is to assist transition into employment;

P. "unearned income" means old age, survivors and disability insurance; railroad retirement benefits; veterans administration compensation or pension; military retirement; pensions, annuities and retirement benefits; lodge or fraternal benefits; shared shelter payments; settlement payments; individual Indian money; child support; unemployment compensation benefits; union benefits paid in cash; gifts and contributions; and real property income; and

Q. "vehicle" means a conveyance for the transporting of persons to or from employment or education for the activities of daily living or for the transportation of goods; "vehicle" does not include boats, trailers or mobile homes used as a principal place of residence."

## **Chapter 350 Section 9 Laws 2007**

Section 9. Section 27-2D-3 NMSA 1978 (being Laws 2003, Chapter 317, Section 3) is amended to read:

"27-2D-3. APPLICATION--RESOURCE PLANNING SESSION--INDIVIDUAL EDUCATION PLAN--REVIEW PERIODS.--

A. Application for cash assistance or services shall be made to the department. The application shall be in writing or reduced to writing in the manner and on the form prescribed by the department. The application shall be made under oath by an applicant with whom a dependent child resides and shall contain a statement of the age of the child, residence, a complete statement of the amount of property in which the applicant has an interest, a statement of all income that the applicant and other benefit group members have at the time of the filing of the application and other information required by the department.

B. The department shall assist applicants in completing the application for cash assistance or services and shall evaluate applicants to determine all department programs for which the applicant may be eligible. The department shall process all expedited food stamp applications within two business days of submission, and the department shall deliver expedited food stamps to eligible applicants within seven days of the application.

C. At the time of application for cash assistance and services, an applicant shall identify everyone who is to be counted in the benefit group. Once an application is approved, the recipient shall advise the department if there are any changes in the membership of the benefit group.

D. No later than thirty days after an application is filed, the department shall make referrals and act on the application.

E. No later than five days after an application is approved, the department shall provide reimbursement for child care.

F. Whenever the department receives an application for assistance, a verification and record of the applicant's circumstances shall promptly be made to ascertain the facts supporting the application and to obtain other information required by the department. The verification may include a visit to the home of the applicant, as long as the department gives adequate prior notice of the visit to the applicant.

G. The department shall work with the recipient to develop an individual educational plan that:

(1) sets forth the educational goal for the recipient, identifies barriers to that goal and identifies the steps to be taken by the recipient to achieve that goal;

(2) describes the services the department may provide so that the recipient may complete the recipient's educational goal; and

(3) provides for meetings with the recipient every six months or at the end of each academic term to review the eligibility of the benefit group and to review and revise the recipient's individual education plan.

H. The recipient and the department shall sign the recipient's individual education plan. The department shall:

(1) not allow a recipient to decline to participate in developing an individual education plan;

(2) not waive the requirement that a recipient develop an individual education plan; and

(3) emphasize the importance of the individual education plan to the recipient."

## **Chapter 350 Section 10 Laws 2007**

Section 10. Section 27-2D-5 NMSA 1978 (being Laws 2003, Chapter 317, Section 5) is amended to read:

"27-2D-5. FINANCIAL STANDARD OF NEED.--

A. The secretary shall adopt a financial standard of need based upon the availability of state funds.

B. The following income sources are exempt from the gross income test, the net income test and the cash payment calculation:

(1) medicaid;

(2) food stamps;

(3) government-subsidized foster care payments if the child for whom the payment is received is also excluded from the benefit group;

(4) supplemental security income;

(5) government-subsidized housing or housing payments;

(6) federally excluded income;

(7) educational payments made directly to an educational institution;

(8) government-subsidized child care;

(9) earned income that belongs to a person seventeen years of age or younger who is not the head of household;

(10) child support passed through to the participant by the child support enforcement division of the department in the following amounts:

(a) fifty dollars (\$50.00) per month through December 31, 2008;  
and

(b) no later than January 1, 2009, a minimum of one hundred dollars (\$100) for one child and two hundred dollars (\$200) for two or more children as based on availability of state and federal funds; and

(11) other income sources as determined by the department.

C. The total countable gross earned and unearned income of the benefit group shall not exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

D. For a benefit group to be eligible to participate:

(1) earned and unearned income that belongs to the benefit group shall not exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group; and

(2) earned and unearned income that belongs to the benefit group shall not equal or exceed the financial standard of need after applying the disregards set out in Paragraphs (1) through (4) of Subsection E of this section.

E. Subject to the availability of state funds, the department shall determine the cash payment of the benefit group by applying the following disregards to the benefit group's earned income and then subtracting that amount from the benefit group's financial standard of need:

(1) one hundred twenty-five dollars (\$125) of monthly earned income and one-half of the remainder, or for a two-parent family, two hundred twenty-five dollars (\$225) of monthly earned income and one-half of the remainder for each parent;

(2) monthly payments made for child care at a maximum of two hundred dollars (\$200) for a child under two years of age and a maximum of one hundred seventy-five dollars (\$175) for a child two years of age or older;

(3) costs of self-employment income; and

(4) business expenses.

F. In addition to the disregards specified in Subsection E of this section, and between the effective date of this 2007 act and June 30, 2008, or until implementation of the employment retention and advancement bonus program in the New Mexico Works Act, the department shall apply the following income disregards to the benefit group's earned income and then subtract that amount from the benefit group's financial standard of need:

(1) for the first two years of receiving cash assistance or services, if a participant works over the work requirement rate set by the department pursuant to the New Mexico Works Act, one hundred percent of the income earned by the participant beyond that rate; and

(2) for the first two years of receiving cash assistance or services, for a two-

parent benefit group in which one parent works over thirty-five hours per week and the other works over twenty-four hours per week, one hundred percent of income earned by each participant beyond the work requirement rate set by the department.

G. The department may recover overpayments of cash assistance on a monthly basis not to exceed fifteen percent of the financial standard of need applicable to the benefit group."

## **Chapter 350 Section 11 Laws 2007**

Section 11. REPEAL.--Section 27-2B-7.1 NMSA 1978 (being Laws 2003, Chapter 160, Section 1) is repealed.

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House Bill 342

Approved April 4, 2007

# **LAWS 2007, CHAPTER 351**

AN ACT

RELATING TO JUVENILE SERVICES; CREATING THE JUVENILE CONTINUUM GRANT FUND; REPEALING THE REGIONAL JUVENILE SERVICES ACT; PROVIDING FOR TRANSFER OF FUNDS TO THE JUVENILE CONTINUUM GRANT FUND.

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

## **Chapter 351 Section 1 Laws 2007**

Section 1. JUVENILE CONTINUUM GRANT FUND -- CREATED -- PURPOSE -- ADMINISTRATION -- GRANT APPLICATIONS.--

A. The "juvenile continuum grant fund" is created as a nonreverting fund in the state treasury. The fund shall be administered by the children, youth and families department and shall consist of appropriations, gifts, grants, donations and bequests made to the fund.

B. Money in the juvenile continuum grant fund is subject to appropriation by the legislature to the children, youth and families department for awarding grants to juvenile justice continuums for the provision of cost-effective services and temporary, nonsecure alternatives to detention for juveniles arrested or referred to juvenile probation and parole or at a risk of such referral.

C. A local or tribal government may apply for a grant from the juvenile continuum grant fund for a juvenile justice continuum within its jurisdiction. The amount of the grant application shall not exceed sixty percent of the annual cost of the continuum. A local match of forty percent may consist of money, land, equipment or in-kind services.

D. The children, youth and families department shall adopt rules on qualifications for grants and specify the format, procedure and deadlines for grant applications. The juvenile justice advisory committee shall review all grant applications and submit those applications recommended for final approval to the secretary of children, youth and families.

E. Disbursements from the juvenile continuum grant fund shall be made upon vouchers issued and signed by the secretary of children, youth and families or the secretary's designee upon warrants drawn by the secretary of finance and administration.

F. As used in this section, a "juvenile justice continuum" is a system of services and sanctions for juveniles arrested or referred to juvenile probation and parole or at risk of such referral and consists of a formal partnership among one or more units of local or tribal governments, the children's court, the district attorney, the public defender, local law enforcement agencies, the public schools and other entities such as private nonprofit organizations, the business community and religious organizations. A juvenile justice continuum shall be established through a memorandum of understanding and a continuum board.

## **Chapter 351 Section 2 Laws 2007**

Section 2. TEMPORARY PROVISION--TRANSFER OF FUNDS.--All money, appropriations, gifts, grants and donations in the regional juvenile services grant fund are transferred to the juvenile continuum grant fund.

## **Chapter 351 Section 3 Laws 2007**

Section 3. REPEAL.--Sections 33-12-1 through 33-12-7 NMSA 1978 (being Laws 1994, Chapter 16, Sections 1 through 7) are repealed.

## **Chapter 351 Section 4 Laws 2007**

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 21, as amended

Approved April 4, 2007

# **LAWS 2007, CHAPTER 352**

AN ACT

RELATING TO THE ALBUQUERQUE METROPOLITAN ARROYO FLOOD CONTROL AUTHORITY; RAISING THE LIMIT OF OUTSTANDING INDEBTEDNESS.

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

## **Chapter 352 Section 1 Laws 2007**

Section 1. Section 72-16-44 NMSA 1978 (being Laws 1963, Chapter 311, Section 44, as amended) is amended to read:

"72-16-44. ISSUANCE OF BONDS AND INCURRENCE OF DEBT.-- The authority is authorized to borrow money in anticipation of taxes or other revenues, or both, and to issue bonds to evidence the amount so borrowed. No bonded indebtedness or any other indebtedness not payable in full within one year, except for interim debentures as provided in Sections 72-16-46 and 72-16-89 through 72-16-91 NMSA 1978, shall be created by the authority without first submitting a proposition of issuing the bonds to the qualified electors of the authority and being approved by a majority of electors voting at an election held for that purpose in accordance with Sections 72-16-28 through 72-16-34 NMSA 1978 and all laws amendatory thereof and supplemental thereto. Bonds so authorized may be issued in one series or more and may mature at such times not exceeding forty years from their issuance as the board may determine. The total of all outstanding indebtedness at any one time shall not exceed eighty million dollars (\$80,000,000) without prior approval of the state legislature."

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House Bill 251

Approved April 4, 2007

## **LAWS 2007, CHAPTER 353**

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING A CHECK-OFF OPTION FOR DRIVERS TO CONTRIBUTE TO THE "SAVE OUR CHILDREN'S SIGHT FUND"; CREATING A FUND; MAKING AN APPROPRIATION.

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

### **Chapter 353 Section 1 Laws 2007**

Section 1. SAVE OUR CHILDREN'S SIGHT FUND CREATED.--The "save our children's sight fund" is created in the state treasury. Money in the fund shall consist of appropriations, contributions, grants and statutory revenues directed to the fund. Money in the fund is appropriated to the department of health, which shall administer the fund for the purpose of development and implementation of a vision screening program making vision screenings and follow-up comprehensive examinations available to New Mexico children regardless of family income. Expenditures from the fund shall be by warrants of the secretary of finance and administration drawn pursuant to vouchers signed by the secretary of health or the secretary's authorized representative. Money in the fund shall not revert at the end of a fiscal year.

### **Chapter 353 Section 2 Laws 2007**

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

"VISION SCREENING.--A school nurse or the nurse's designee, a primary care health provider or a lay eye screener shall administer a vision screening test for students enrolled in the school in pre-kindergarten, kindergarten, first grade and third grade and for transfer and new students, unless a parent affirmatively prohibits the visual screening."

### **Chapter 353 Section 3 Laws 2007**

Section 3. A new section of Chapter 24 NMSA 1978 is enacted to read:

"NOTICE OF THE NEED FOR FURTHER VISION EVALUATION AND AVAILABILITY OF FUNDS.--The department of health shall promulgate rules for award

of money from the save our children's sight fund. When the vision screen of a student indicates the need for further evaluation, the student's school shall notify the student's parent of that need and provide information on the availability of funds from the save our children's sight fund. The notice shall state that the parent, if the student is not already covered by health insurance for a comprehensive eye examination, may apply to the fund for the following expenses as a result of the screening:

A. a comprehensive eye examination by an optometrist or ophthalmologist whose services are used to follow up the school vision screen;

B. the cost of contact lenses or polycarbonate lenses and frames for eyeglasses;  
and

C. replacement insurance for lost or broken lenses."

### **Chapter 353 Section 4 Laws 2007**

Section 4. A new section of Chapter 66, Article 6 NMSA 1978 is enacted to read:

"SAVE OUR CHILDREN'S SIGHT FUND OPTION.--The vehicle registration form in use as of January 1, 2008 shall include a check-off option for a driver who wishes to contribute to the save our children's sight fund for a one-dollar (\$1.00) or a five-dollar (\$5.00) fee in addition to the registration fees required by the division. All fees collected from the check-off option shall be paid to the state treasurer to the credit of the save our children's sight fund within two months of receipt."

### **Chapter 353 Section 5 Laws 2007**

Section 5. TEMPORARY PROVISION.--The secretary of health shall appoint an advisory committee to establish the standard for an appropriate vision screening. The committee shall consist of a practicing school nurse, a school administrator, a representative of a statewide organization for the prevention of blindness, a licensed New Mexico optometrist, a licensed New Mexico ophthalmologist and a licensed New Mexico pediatrician. The department of health shall promulgate rules to establish vision screening test standards pursuant to this section.

### **Chapter 353 Section 6 Laws 2007**

Section 6. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2008.

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House Bill 1283, as amended

Approved April 4, 2007

# **LAWS 2007, CHAPTER 354**

AN ACT

RELATING TO PUBLIC HOLIDAYS; CREATING NEW MEXICO YOUTH DAY ON THE FIRST SATURDAY IN AUGUST.

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

## **Chapter 354 Section 1 Laws 2007**

Section 1. A new section of Chapter 12, Article 5 NMSA 1978 is enacted to read:

"NEW MEXICO YOUTH DAY.--The first Saturday of August of each year shall be set apart and known as "New Mexico Youth Day", celebrating the importance of children in New Mexico. This day shall be observed by the people of New Mexico with activities encouraging parents and guardians to spend time together with their children."

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House Bill 363

Approved April 4, 2007

# **LAWS 2007, CHAPTER 355**

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; INCREASING THE PERCENTAGE OF THE SEVERANCE TAX PERMANENT FUND INVESTED IN THE SMALL BUSINESS INVESTMENT CORPORATION; AMENDING A SECTION OF THE NMSA 1978.

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

## **Chapter 355 Section 1 Laws 2007**

Section 1. 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 BUSINESS INVESTMENTS.--

A. No more than six percent of the market value of the severance tax permanent fund may be invested in New Mexico private equity funds or New Mexico businesses under this section.

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

C. The state investment officer shall make investments pursuant to Subsection A of this section only upon approval of the council, upon review of the recommendation of the private equity investment advisory committee and within guidelines and policies established by the council.

D. As used in this section:

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

(2) "New Mexico private equity fund" means a limited partnership, limited liability company or corporation organized and operating in the United States and maintaining an office staffed by a full-time investment officer in New Mexico that:

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

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

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

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

(e) accepts investments only from accredited investors as that term is defined in Section 2 of the federal Securities Act of 1933, as amended (15 USCA Section 77(b)), and rules and regulations promulgated pursuant to that section.

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; or

(b) in New Mexico aerospace businesses that have 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;

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

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

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

(b) is necessary to protect the investment; and

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

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

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

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House Bill 284

Approved April 4, 2007

## **LAWS 2007, CHAPTER 356**

AN ACT

RELATING TO INSURANCE; REQUIRING INSURANCE COVERAGE FOR HEARING AIDS FOR ELIGIBLE CHILDREN.

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

### **Chapter 356 Section 1 Laws 2007**

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

"HEARING AID COVERAGE FOR CHILDREN REQUIRED.--

A. Group health care coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act shall provide coverage for a hearing aid and any related service for the full cost of one hearing aid per hearing-impaired ear up to two thousand two hundred dollars (\$2,200) every thirty-six months for hearing aids for insured children under eighteen years of age or under twenty-one years of age if still attending high school. The insured may choose a higher priced hearing aid and may pay the difference in cost above the two-thousand-two-hundred-dollar (\$2,200) limit as provided in this subsection without financial or contractual penalty to the insured or to the provider of the hearing aids.

B. Each insurer that delivers, issues for delivery or renews under the Health Care Purchasing Act any group health care coverage, including any form of self-insurance, may make available to the policyholder the option of purchasing additional hearing aid coverage that exceeds the services described in this section.

C. Hearing aid coverage offered shall include fitting and dispensing services, including providing ear molds as necessary to maintain optimal fit, provided by an audiologist, a hearing aid dispenser or a physician, licensed in New Mexico.

D. The provisions of this section do not apply to short-term travel, accident-only or limited or specified disease policies.

E. Coverage for hearing aids may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same group health care coverage, including any form of self-insurance.

F. For the purposes of this section, "hearing aid" means durable medical equipment that is of a design and circuitry to optimize audibility and listening skills in the environment commonly experienced by children."

## **Chapter 356 Section 2 Laws 2007**

Section 2. A new section of the New Mexico Insurance Code, Section 59A-22-34.5 NMSA 1978, is enacted to read:

"59A-22-34.5. HEARING AID COVERAGE FOR CHILDREN REQUIRED.--

A. An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall provide coverage for a hearing aid and any related service for the full cost of one hearing aid per hearing-impaired ear up to two thousand two hundred dollars (\$2,200) every thirty-six months for hearing aids for insured children under eighteen years of age or under twenty-one years of age if still attending high school. The insured may choose a higher priced hearing aid and may pay the difference in cost above the two-thousand-two-hundred-dollar (\$2,200) limit as provided in this subsection without financial or contractual penalty to the insured or to the provider of the hearing aid.

B. An insurer that delivers, issues for delivery or renews in this state an individual or group health insurance policy, health care plan or certificate of health insurance may make available to the policyholder the option of purchasing additional hearing aid coverage that exceeds the services described in this section.

C. Hearing aid coverage offered shall include fitting and dispensing services, including providing ear molds as necessary to maintain optimal fit, provided by an audiologist, a hearing aid dispenser or a physician, licensed in New Mexico.

D. The provisions of this section do not apply to short-term travel, accident-only or limited or specified disease policies.

E. Coverage for hearing aids may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.

F. For the purposes of this section, "hearing aid" means durable medical equipment that is of a design and circuitry to optimize audibility and listening skills in the environment commonly experienced by children."

## **Chapter 356 Section 3 Laws 2007**

Section 3. A new section of the New Mexico Insurance Code, Section 59A-23-7.6 NMSA 1978, is enacted to read:

### "59A-23-7.6. HEARING AID COVERAGE FOR CHILDREN REQUIRED.--

A. A blanket or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall provide coverage for a hearing aid and any related service for the full cost of one hearing aid per hearing-

impaired ear up to two thousand two hundred dollars (\$2,200) every thirty-six months for hearing aids for insured children under eighteen years of age or under twenty-one years of age if still attending high school. The insured may choose a higher priced hearing aid and may pay the difference in cost above the two-thousand-two-hundred-dollar (\$2,200) limit as provided in this subsection without financial or contractual penalty to the insured or to the provider of the hearing aid.

B. An insurer that delivers, issues for delivery or renews in this state a blanket or group health insurance policy, health care plan or certificate of health insurance may make available to the policyholder the option of purchasing additional hearing aid coverage that exceeds the services described in this section.

C. Hearing aid coverage offered shall include fitting and dispensing services, including providing ear molds as necessary to maintain optimal fit, provided by an audiologist, a hearing aid dispenser or a physician, licensed in New Mexico.

D. The provisions of this section do not apply to short-term travel, accident-only or limited or specified disease policies.

E. Coverage for hearing aids may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.

F. For the purposes of this section, "hearing aid" means durable medical equipment that is of a design and circuitry to optimize audibility and listening skills in the environment commonly experienced by children."

## **Chapter 356 Section 4 Laws 2007**

Section 4. A new section of the New Mexico Insurance Code, Section 59A-46-38.5 NMSA 1978, is enacted to read:

### **"59A-46-38.5. HEARING AID COVERAGE FOR CHILDREN REQUIRED.--**

A. An individual or group health maintenance organization contract delivered, issued for delivery or renewed in this state shall provide coverage for a hearing aid and any related service for the full cost of one hearing aid per hearing-impaired ear up to two thousand two hundred dollars (\$2,200) every thirty-six months for hearing aids for insured children under eighteen years of age or under twenty-one years of age if still attending high school. The insured may choose a higher priced hearing aid and may pay the difference in cost above the two-thousand-two-hundred-dollar (\$2,200) limit as provided in this subsection without financial or contractual penalty to the insured or to the provider of the hearing aid.

B. An insurer that delivers, issues for delivery or renews in this state an individual or group health maintenance organization contract may make available to the policyholder the option of purchasing additional hearing aid coverage that exceeds the services described in this section.

C. Hearing aid coverage offered shall include fitting and dispensing services, including providing ear molds as necessary to maintain optimal fit, provided by an audiologist, a hearing aid dispenser or a physician, licensed in New Mexico. A health maintenance organization has the discretion to determine the provider of hearing aids with which it contracts. Nothing in this section shall be construed to preclude a health maintenance organization from conducting medical necessity or utilization review for hearing aids and related services.

D. The provisions of this section do not apply to short-term travel, accident-only or limited or specified disease policies.

E. Coverage for hearing aids may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.

F. For the purposes of this section, "hearing aid" means durable medical equipment that is of a design and circuitry to optimize audibility and listening skills in the environment commonly experienced by children."

## **Chapter 356 Section 5 Laws 2007**

Section 5. A new section of the New Mexico Insurance Code, Section 59A-47-37.1 NMSA 1978, is enacted to read:

"59A-47-37.1. HEARING AID COVERAGE FOR CHILDREN REQUIRED.--

A. An individual or group health insurance policy, health care plan or certificate of health insurance delivered or issued for delivery in this state shall provide coverage for a hearing aid and any related service for the full cost of one hearing aid per hearing-impaired ear up to two thousand two hundred dollars (\$2,200) every thirty-six months for hearing aids for insured children under eighteen years of age or under twenty-one years of age if still attending high school. The insured may choose a higher priced hearing aid and may pay the difference in cost above the two-thousand-two-hundred-dollar (\$2,200) limit as provided in this subsection without financial or contractual penalty to the insured or to the provider of the hearing aid.

B. An insurer that delivers, issues for delivery or renews in this state an individual or group health insurance policy, health care plan or certificate of health insurance may make available to the policyholder the option of purchasing additional hearing aid coverage that exceeds the services described in this section.

C. Hearing aid coverage offered shall include fitting and dispensing services, including providing ear molds as necessary to maintain optimal fit, provided by an audiologist, a hearing aid dispenser or a physician, licensed in New Mexico.

D. The provisions of this section do not apply to short-term travel, accident-only or limited or specified disease policies.

E. Coverage for hearing aids may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.

F. For the purposes of this section, "hearing aid" means durable medical equipment that is of a design and circuitry to optimize audibility and listening skills in the environment commonly experienced by children."

## **Chapter 356 Section 6 Laws 2007**

Section 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 529, as amended

Approved April 4, 2007

## **LAWS 2007, CHAPTER 357**

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING A CHECK-OFF OPTION FOR DRIVERS TO CONTRIBUTE TO THE "SAVE OUR CHILDREN'S SIGHT FUND"; CREATING A FUND; MAKING AN APPROPRIATION.

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

### **Chapter 357 Section 1 Laws 2007**

Section 1. SAVE OUR CHILDREN'S SIGHT FUND CREATED.--The "save our children's sight fund" is created in the state treasury. Money in the fund shall consist of appropriations, contributions, grants and statutory revenues directed to the fund. Money in the fund is appropriated to the department of health, which shall administer the fund for the purpose of development and implementation of a vision screening program making vision screenings and follow-up comprehensive examinations available to New Mexico children regardless of family income. Expenditures from the fund shall be by warrants of the secretary of finance and administration drawn pursuant to vouchers signed by the secretary of health or the secretary's authorized representative. Money in the fund shall not revert at the end of a fiscal year.

### **Chapter 357 Section 2 Laws 2007**

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

"VISION SCREENING.--A school nurse or the nurse's designee, a primary care health provider or a lay eye screener shall administer a vision screening test for students enrolled in the school in pre-kindergarten, kindergarten, first grade and third grade and for transfer and new students in those grades, unless a parent affirmatively prohibits the visual screening."

### **Chapter 357 Section 3 Laws 2007**

Section 3. A new section of Chapter 24 NMSA 1978 is enacted to read:

"NOTICE OF THE NEED FOR FURTHER VISION EVALUATION AND AVAILABILITY OF FUNDS.--The department of health shall promulgate rules for award of money from the save our children's sight fund. When the vision screen of a student indicates the need for further evaluation, the student's school shall notify the student's parent of that need and provide information on the availability of funds from the save our children's sight fund. The notice shall state that the parent, if the student is not already covered by health insurance for a comprehensive eye examination, may apply to the fund for the following expenses as a result of the screening:

A. a comprehensive eye examination by an optometrist or ophthalmologist whose services are used to follow up the school vision screen;

B. the cost of contact lenses or polycarbonate lenses and frames for eyeglasses;  
and

C. replacement insurance for lost or broken lenses."

### **Chapter 357 Section 4 Laws 2007**

Section 4. A new section of Chapter 66, Article 6 NMSA 1978 is enacted to read:

"SAVE OUR CHILDREN'S SIGHT FUND OPTION.--The vehicle registration form in use as of January 1, 2008 shall include a check-off option for a driver who wishes to contribute to the save our children's sight fund for a one-dollar (\$1.00) or a five-dollar (\$5.00) fee in addition to the registration fees required by the division. All fees collected from the check-off option shall be paid to the state treasurer to the credit of the save our children's sight fund within two months of receipt."

### **Chapter 357 Section 5 Laws 2007**

Section 5. TEMPORARY PROVISION.--The secretary of health shall appoint an advisory committee to establish the standard for an appropriate vision screening. The committee shall consist of a practicing school nurse, a school administrator, a representative of a statewide organization for the prevention of blindness, a licensed New Mexico optometrist, a licensed New Mexico ophthalmologist and a licensed New Mexico pediatrician. The department of health shall promulgate rules to establish vision screening test standards pursuant to this section.

### **Chapter 357 Section 6 Laws 2007**

Section 6. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2008.

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Senate Bill 1149, as amended

Approved April 4, 2007

## **LAWS 2007, CHAPTER 358**

AN ACT

RELATING TO PUBLIC HOLIDAYS; CREATING NEW MEXICO YOUTH DAY ON THE FIRST SATURDAY IN AUGUST.

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

## **Chapter 358 Section 1 Laws 2007**

Section 1. A new section of Chapter 12, Article 5 NMSA 1978 is enacted to read:

"NEW MEXICO YOUTH DAY.--The first Saturday of August of each year shall be set apart and known as "New Mexico Youth Day", celebrating the importance of children in New Mexico. This day shall be observed by the people of New Mexico with activities encouraging parents and guardians to spend time with their children."

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Senate Bill 626

Approved April 4, 2007

## **LAWS 2007, CHAPTER 359**

AN ACT

RELATING TO INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND;  
PERMITTING INVESTMENT IN PRIVATE EQUITY FUNDS WITH TRIBAL  
INVESTORS.

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

## **Chapter 359 Section 1 Laws 2007**

Section 1. 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 BUSINESS  
INVESTMENTS.--

A. No more than six percent of the market value of the severance tax permanent fund may be invested in New Mexico private equity funds or New Mexico businesses under this section.

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

C. The state investment officer shall make investments pursuant to Subsection A of this section only upon approval of the council, upon review of the recommendation of

the private equity investment advisory committee and within guidelines and policies established by the council.

D. As used in this section:

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

(2) "New Mexico private equity fund" means a limited partnership, limited liability company or corporation organized and operating in the United States and maintaining an office staffed by a full-time investment officer in New Mexico that:

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

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

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

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

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

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

(1) the investments are made:

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

(b) in New Mexico aerospace businesses that have 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;

(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 three-fourths 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 three-fourths percent of the market value of the severance tax permanent fund. If the invested capital in the small business investment corporation equals less than

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

G. The state investment officer shall report semiannually on the New Mexico private equity investments made pursuant to this section. Annually, a report shall be submitted to the legislature prior to the beginning of each regular legislative session and a second report no later than October 1 each year to the legislative finance committee,

the revenue stabilization and tax policy committee and any other appropriate interim committee. Each report shall provide the amounts invested in each New Mexico private equity fund, as well as information about the objectives of the funds, the companies in which each fund is invested and how each investment enhances the economic development objectives of the state. Each report shall provide the amounts invested in each New Mexico business."

## **Chapter 359 Section 2 Laws 2007**

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 662, as amended

Approved April 4, 2007

## **LAWS 2007, CHAPTER 360**

AN ACT

RELATING TO PUBLIC INVESTMENTS; INCREASING THE INVESTMENTS OF THE SEVERANCE TAX PERMANENT FUND IN PRIVATE EQUITY FUNDS FROM SIX TO NINE PERCENT.

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

## **Chapter 360 Section 1 Laws 2007**

Section 1. 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 BUSINESS INVESTMENTS.--

A. No more than nine percent of the market value of the severance tax permanent fund may be invested in New Mexico private equity funds or New Mexico businesses under this section.

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

C. The state investment officer shall make investments pursuant to Subsection A of this section only upon approval of the council, upon review of the recommendation of the private equity investment advisory committee and within guidelines and policies established by the council.

D. As used in this section:

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

(2) "New Mexico private equity fund" means a limited partnership, limited liability company or corporation organized and operating in the United States and maintaining an office staffed by a full-time investment officer in New Mexico that:

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

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

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

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

(e) accepts investments only from accredited investors as that term is defined in Section 2 of the federal Securities Act of 1933, as amended (15 USCA Section 77(b)), and rules and regulations promulgated pursuant to that section.

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; or

(b) in New Mexico aerospace businesses that have 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;

(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 three-fourths 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 three-fourths percent of the market value of the severance tax permanent fund. If the invested capital in the small business investment corporation equals less than

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

G. The state investment officer shall report semiannually on the New Mexico private equity investments made pursuant to this section. Annually, a report shall be submitted to the legislature prior to the beginning of each regular legislative session and a second report no later than October 1 each year to the legislative finance committee,

the revenue stabilization and tax policy committee and any other appropriate interim committee. Each report shall provide the amounts invested in each New Mexico private equity fund, as well as information about the objectives of the funds, the companies in which each fund is invested and how each investment enhances the economic development objectives of the state. Each report shall provide the amounts invested in each New Mexico business."

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Senate Bill 865

Approved April 4, 2007

## **LAWS 2007, CHAPTER 361**

### **AN ACT**

RELATING TO TAXATION; PROVIDING GROSS RECEIPTS TAX DEDUCTIONS FOR CERTAIN HEALTH CARE PROVIDERS; PROVIDING AN INCOME TAX CREDIT FOR RURAL HEALTH CARE PRACTITIONERS; PROVIDING A GROSS RECEIPTS AND GOVERNMENTAL GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS FROM THE SALE OF OXYGEN AND OXYGEN SERVICES; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR INDIAN HEALTH SERVICE PAYMENTS FOR CERTAIN MEDICAL AND HEALTH SERVICES; ADDING CERTAIN CLINICAL LABORATORIES TO HEALTH CARE PRACTITIONERS ELIGIBLE FOR A GROSS RECEIPTS TAX DEDUCTION; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS RELATED TO FITTING AND DISPENSING HEARING AIDS AND VISION AIDS; PROVIDING A PHASED-IN CREDIT FOR THE STATE PORTION OF THE GROSS RECEIPTS TAX FOR CERTAIN HOSPITALS; PROVIDING A GROSS RECEIPTS TAX CREDIT FOR UNPAID SERVICES OF A PHYSICIAN WHILE ON CALL; REVISING TAX INCENTIVES FOR HEALTH INSURERS THAT ARE ASSESSED PURSUANT TO THE MEDICAL INSURANCE POOL .

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

### **Chapter 361 Section 1 Laws 2007**

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

"DISTRIBUTION ADJUSTMENT--TAX ADMINISTRATION SUSPENSE FUND--CREDIT FOR RECEIPTS OF HOSPITALS.--Distributions from the tax administration suspense fund to the general fund of net receipts attributable to the gross receipts tax shall be adjusted for the full cost of credits issued pursuant to the Gross Receipts and Compensating Tax Act for receipts of hospitals licensed by the department of health."

## Chapter 361 Section 2 Laws 2007

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

"TAX CREDIT--RURAL HEALTH CARE PRACTITIONER TAX CREDIT.--

A. A taxpayer who files an individual New Mexico tax return, who is not a dependent of another individual, who is an eligible health care practitioner and who has provided health care services in New Mexico in a rural health care underserved area in a taxable year, may claim a credit against the tax liability imposed by the Income Tax Act. The credit provided in this section may be referred to as the "rural health care practitioner tax credit".

B. The rural health care practitioner tax credit may be claimed and allowed in an amount that shall not exceed five thousand dollars (\$5,000) for all eligible physicians, osteopathic physicians, dentists, clinical psychologists, podiatrists and optometrists who qualify pursuant to the provisions of this section, except the credit shall not exceed three thousand dollars (\$3,000) for all eligible dental hygienists, physician assistants, certified nurse-midwives, certified registered nurse anesthetists, certified nurse practitioners and clinical nurse specialists.

C. To qualify for the rural health care practitioner tax credit, an eligible health care practitioner shall have provided health care during a taxable year for at least two thousand eighty hours at a practice site located in an approved, rural health care underserved area. An eligible rural health care practitioner who provided health care services for at least one thousand forty hours but less than two thousand eighty hours at a practice site located in an approved rural health care underserved area during a taxable year is eligible for one-half of the credit amount.

D. Before an eligible health care practitioner may claim the rural health care practitioner tax credit, the practitioner shall submit an application to the department of health that describes the practitioner's clinical practice and contains additional information that the department of health may require. The department of health shall determine whether an eligible health care practitioner qualifies for the rural health care practitioner tax credit, and shall issue a certificate to each qualifying eligible health care practitioner. The department of health shall provide the taxation and revenue department appropriate information for all eligible health care practitioners to whom certificates are issued.

E. A taxpayer claiming the credit provided by this section shall submit a copy of the certificate issued by the department of health with the taxpayer's New Mexico income tax return for the taxable year. If the amount of the credit claimed exceeds a taxpayer's tax liability for the taxable year in which the credit is being claimed, the excess may be carried forward for three consecutive taxable years.

F. As used in this section:

(1) "eligible health care practitioner" means:

(a) a certified nurse-midwife licensed by the board of nursing as a registered nurse and licensed by the public health division of the department of health to practice nurse-midwifery as a certified nurse-midwife;

(b) a dentist or dental hygienist licensed pursuant to the Dental Health Care Act;

(c) an optometrist licensed pursuant to the provisions of the Optometry Act;

(d) an osteopathic physician licensed pursuant to the provisions of Chapter 61, Article 10 NMSA 1978 or an osteopathic physician assistant licensed pursuant to the provisions of the Osteopathic Physicians' Assistants Act;

(e) a physician or physician assistant licensed pursuant to the provisions of Chapter 61, Article 6 NMSA 1978;

(f) a podiatrist licensed pursuant to the provisions of the Podiatry Act;

(g) a clinical psychologist licensed pursuant to the provisions of the Professional Psychologist Act; and

(h) a registered nurse in advanced practice who has been prepared through additional formal education as provided in Sections 61-3-23.2 through 61-3-23.4 NMSA 1978 to function beyond the scope of practice of professional registered nursing, including certified nurse practitioners, certified registered nurse anesthetists and clinical nurse specialists;

(2) "health care underserved area" means a geographic area or practice location in which it has been determined by the department of health, through the use of indices and other standards set by the department of health, that sufficient health care services are not being provided;

(3) "practice site" means a private practice, public health clinic, hospital, public or private nonprofit primary care clinic or other health care service location in a health care underserved area; and

(4) "rural" means an area or location identified by the department of health as falling outside of an urban area."

## **Chapter 361 Section 3 Laws 2007**

Section 3. Section 7-9-73.2 NMSA 1978 (being Laws 1998, Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as amended) is amended to read:

"7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN.--

A. Receipts from the sale of prescription drugs and oxygen and oxygen services provided by a licensed medicare durable medical equipment provider may be deducted from gross receipts and governmental gross receipts.

B. For the purposes of this section, "prescription drugs" means insulin and substances that are:

(1) dispensed by or under the supervision of a licensed pharmacist or by a physician or other person authorized under state law to do so;

(2) prescribed for a specified person by a person authorized under state law to prescribe the substance; and

(3) subject to the restrictions on sale contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."

## **Chapter 361 Section 4 Laws 2007**

Section 4. Section 7-9-77.1 NMSA 1978 (being Laws 1998, Chapter 96, Section 1, as amended) is amended to read:

"7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL AND HEALTH CARE SERVICES.--

A. Receipts from payments by the United States government or any agency thereof for provision of medical and other health services by medical doctors, osteopathic physicians, doctors of oriental medicine, athletic trainers, chiropractic physicians, counselor and therapist practitioners, dentists, massage therapists, naprapaths, nurses, nutritionists, dietitians, occupational therapists, optometrists, pharmacists, physical therapists, psychologists, radiologic technologists, respiratory care practitioners, audiologists, speech-language pathologists, social workers and podiatrists or of medical, other health and palliative services by hospices or nursing homes to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

B. Receipts from payments by a third-party administrator of the federal TRICARE program for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be deducted from gross receipts.

C. Receipts from payments by or on behalf of the Indian health service of the United States department of health and human services for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be deducted from gross receipts.

D. Receipts from payments by the United States government or any agency thereof for medical services provided by a clinical laboratory to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

E. Receipts from payments by the United States government or any agency thereof for medical, other health and palliative services provided by a home health agency to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

F. For the purposes of this section:

(1) "athletic trainer" means a person licensed as an athletic trainer pursuant to the provisions of Chapter 61, Article 14D NMSA 1978;

(2) "chiropractic physician" means a person who practices chiropractic as defined in the Chiropractic Physician Practice Act;

(3) "clinical laboratory" means a laboratory accredited pursuant to 42 USCA 263a;

(4) "counselor and therapist practitioner" means a person licensed to practice as a counselor or therapist pursuant to the provisions of Chapter 61, Article 9A NMSA 1978;

(5) "dentist" means a person licensed to practice as a dentist pursuant to the provisions of Chapter 61, Article 5A NMSA 1978;

(6) "doctor of oriental medicine" means a person licensed as a physician to practice acupuncture or oriental medicine pursuant to the provisions of Chapter 61, Article 14A NMSA 1978;

(7) "home health agency" means a for-profit entity that is licensed by the department of health and certified by the federal centers for medicare and medicaid services as a home health agency and certified to provide medicare services;

(8) "hospice" means a for-profit entity licensed by the department of health as a hospice and certified to provide medicare services;

(9) "massage therapist" means a person licensed to practice massage therapy pursuant to the provisions of Chapter 61, Article 12C NMSA 1978;

(10) "medical doctor" means a person licensed as a physician to practice medicine pursuant to the provisions of the Medical Practice Act;

(11) "naprapath" means a person licensed as a naprapath pursuant to the provisions of Chapter 61, Article 12E NMSA 1978;

(12) "nurse" means a person licensed as a registered nurse pursuant to the provisions of Chapter 61, Article 3 NMSA 1978;

(13) "nursing home" means a for-profit entity licensed by the department of health as a nursing home and certified to provide medicare services;

(14) "nutritionist" or "dietitian" means a person licensed as a nutritionist or dietitian pursuant to the provisions of Chapter 61, Article 7A NMSA 1978;

(15) "occupational therapist" means a person licensed as an occupational therapist pursuant to the provisions of Chapter 61, Article 12A NMSA 1978;

(16) "osteopathic physician" means a person licensed as an osteopathic physician pursuant to the provisions of Chapter 61, Article 10 NMSA 1978;

(17) "optometrist" means a person licensed to practice optometry pursuant to the provisions of Chapter 61, Article 2 NMSA 1978;

(18) "pharmacist" means a person licensed as a pharmacist pursuant to the provisions of Chapter 61, Article 11 NMSA 1978;

(19) "physical therapist" means a person licensed as a physical therapist pursuant to the provisions of Chapter 61, Article 12D NMSA 1978;

(20) "podiatrist" means a person licensed as a podiatrist pursuant to the provisions of the Podiatry Act;

(21) "psychologist" means a person licensed as a psychologist pursuant to the provisions of Chapter 61, Article 9 NMSA 1978;

(22) "radiologic technologist" means a person licensed as a radiologic technologist pursuant to the provisions of Chapter 61, Article 14E NMSA 1978;

(23) "respiratory care practitioner" means a person licensed as a respiratory care practitioner pursuant to the provisions of Chapter 61, Article 12B NMSA 1978;

(24) "social worker" means a person licensed as an independent social worker pursuant to the provisions of Chapter 61, Article 31 NMSA 1978;

(25) "speech-language pathologist" means a person licensed as a speech-language pathologist pursuant to the provisions of Chapter 61, Article 14B NMSA 1978; and

(26) "TRICARE program" means the program defined in 10 U.S.C. 1072(7)."

## **Chapter 361 Section 5 Laws 2007**

Section 5. Section 7-9-93 NMSA 1978 (being Laws 2004, Chapter 116, Section 6, as amended) is amended to read:

"7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR SERVICES PROVIDED BY HEALTH CARE PRACTITIONER.--

A. Receipts from payments by a managed health care provider or health care insurer for commercial contract services or medicare part C services provided by a health care practitioner that are not otherwise deductible pursuant to another provision of the Gross Receipts and Compensating Tax Act may be deducted from gross receipts, provided that the services are within the scope of practice of the person providing the service. Receipts from fee-for-service payments by a health care insurer may not be deducted from gross receipts. The deduction provided by this section shall be separately stated by the taxpayer.

B. For the purposes of this section:

(1) "commercial contract services" means health care services performed by a health care practitioner pursuant to a contract with a managed health care provider or health care insurer other than those health care services provided for medicare patients pursuant to Title 18 of the federal Social Security Act or for medicaid patients pursuant to Title 19 or Title 21 of the federal Social Security Act;

(2) "health care insurer" means a person that:

(a) has a valid certificate of authority in good standing pursuant to the New Mexico Insurance Code to act as an insurer, health maintenance organization or nonprofit health care plan or prepaid dental plan; and

(b) contracts to reimburse licensed health care practitioners for providing basic health services to enrollees at negotiated fee rates;

(3) "health care practitioner" means:

(a) a chiropractic physician licensed pursuant to the provisions of the Chiropractic Physician Practice Act;

(b) a dentist or dental hygienist licensed pursuant to the Dental Health Care Act;

(c) a doctor of oriental medicine licensed pursuant to the provisions of the Acupuncture and Oriental Medicine Practice Act;

(d) an optometrist licensed pursuant to the provisions of the Optometry Act;

(e) an osteopathic physician licensed pursuant to the provisions of Chapter 61, Article 10 NMSA 1978 or an osteopathic physician's assistant licensed pursuant to the provisions of the Osteopathic Physicians' Assistants Act;

(f) a physical therapist licensed pursuant to the provisions of the Physical Therapy Act;

(g) a physician or physician assistant licensed pursuant to the provisions of Chapter 61, Article 6 NMSA 1978;

(h) a podiatrist licensed pursuant to the provisions of the Podiatry Act;

(i) a psychologist licensed pursuant to the provisions of the Professional Psychologist Act;

(j) a registered lay midwife registered by the department of health;

(k) a registered nurse or licensed practical nurse licensed pursuant to the provisions of the Nursing Practice Act;

(l) a registered occupational therapist licensed pursuant to the provisions of the Occupational Therapy Act;

(m) a respiratory care practitioner licensed pursuant to the provisions of the Respiratory Care Act;

(n) a speech-language pathologist or audiologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(o) a professional clinical mental health counselor, marriage and family therapist or professional art therapist licensed pursuant to the provisions of the

Counseling and Therapy Practice Act who has obtained a master's degree or a doctorate;

(p) an independent social worker licensed pursuant to the provisions of the Social Work Practice Act; and

(q) a clinical laboratory that is accredited pursuant to 42 U.S.C. Section 263a but that is not a laboratory in a physician's office or in a hospital defined pursuant to 42 U.S.C. Section 1395x;

(4) "managed health care provider" means a person that provides for the delivery of comprehensive basic health care services and medically necessary services to individuals enrolled in a plan through its own employed health care providers or by contracting with selected or participating health care providers. "Managed health care provider" includes only those persons that provide comprehensive basic health care services to enrollees on a contract basis, including the following:

- (a) health maintenance organizations;
- (b) preferred provider organizations;
- (c) individual practice associations;
- (d) competitive medical plans;
- (e) exclusive provider organizations;
- (f) integrated delivery systems;
- (g) independent physician-provider organizations;
- (h) physician hospital-provider organizations; and
- (i) managed care services organizations; and

(5) "medicare part C services" means services performed pursuant to a contract with a managed health care provider for medicare patients pursuant to Title 18 of the federal Social Security Act."

## **Chapter 361 Section 6 Laws 2007**

Section 6. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS--HEARING AIDS AND VISION AIDS AND RELATED SERVICES.--

A. Receipts that are not exempt from gross receipts taxation and are not deductible pursuant to another provision of the Gross Receipts and Compensating Tax Act that are from the sale of vision aids or hearing aids or related services may be deducted from gross receipts.

B. As used in this section:

(1) "hearing aid" means a small electronic prescription device that amplifies sound and is usually worn in or behind the ear of a person that compensates for impaired hearing, including cochlear implants, amplification systems or other devices that are:

(a) specifically designed for use by and marketed to persons with hearing loss; and

(b) not normally used by a person who does not have a hearing loss;

(2) "low vision" means impaired vision with a significant reduction in visual function that cannot be corrected with conventional glasses or contact lenses;

(3) "related services" means services required to fit or dispense hearing aids or vision aids;

(4) "vision aid" means closed circuit television systems, monoculars, magnification systems, speech output devices or other systems that are:

(a) specifically designed for use by and marketed to persons with low vision or visual impairments; and

(b) not normally used by a person who does not have low vision or a visual impairment; and

(5) "visual impairment" means a central visual acuity of 20/200 or less in the better eye with the use of a correcting lens or a limitation in the fields of vision so that the widest diameter of the visual field subtends an angle of twenty degrees or less."

## **Chapter 361 Section 7 Laws 2007**

Section 7. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"CREDIT--GROSS RECEIPTS TAX--RECEIPTS OF CERTAIN HOSPITALS.--

A. A hospital licensed by the department of health may claim a credit for each reporting period against the gross receipts tax due for that reporting period as follows:

(1) for a hospital located in a municipality:

(a) on or after July 1, 2007 but before July 1, 2008, in an amount equal to seven hundred fifty-five thousandths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(b) on or after July 1, 2008 but before July 1, 2009, in an amount equal to one and fifty-one hundredths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(c) on or after July 1, 2009 but before July 1, 2010, in an amount equal to two and two hundred sixty-five thousandths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(d) on or after July 1, 2010 but before July 1, 2011, in an amount equal to three and two hundredths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken; and

(e) on or after July 1, 2011, in an amount equal to three and seven hundred seventy-five thousandths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken; and

(2) for a hospital located in the unincorporated area of a county:

(a) on or after July 1, 2007 but before July 1, 2008, in an amount equal to one percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(b) on or after July 1, 2008, but before July 1, 2009, in an amount equal to two percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(c) on or after July 1, 2009 but before July 1, 2010, in an amount equal to three percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(d) on or after July 1, 2010 but before July 1, 2011, in an amount equal to four percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken; and

(e) on or after July 1, 2011, in an amount equal to five percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken.

B. For the purposes of this section, "hospital" means a facility providing emergency or urgent care, inpatient medical care and nursing care for acute illness,

injury, surgery or obstetrics and includes a facility licensed by the department of health as a critical access hospital, general hospital, long-term acute care hospital, psychiatric hospital, rehabilitation hospital, limited services hospital and special hospital."

## **Chapter 361 Section 8 Laws 2007**

Section 8. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"CREDIT--GROSS RECEIPTS TAX--UNPAID CHARGES FOR SERVICES PROVIDED IN A HOSPITAL.--

A. A licensed medical doctor or licensed osteopathic physician may claim a credit against gross receipts taxes due in the following amounts:

(1) from July 1, 2007 through June 30, 2008, thirty-three percent of the value of unpaid qualified health care services;

(2) from July 1, 2008 through June 30, 2009, sixty-seven percent of the value of unpaid qualified health care services; and

(3) on and after July 1, 2009, one hundred percent of the value of unpaid qualified health care services.

B. As used in this section:

(1) "qualified health care services" means medical care services provided by a licensed medical doctor or licensed osteopathic physician while on call to a hospital; and

(2) "value of unpaid qualified health care services" means the amount that is charged for qualified health care services, not to exceed one hundred thirty percent of the reimbursement rate for the services under the medicaid program administered by the human services department, that remains unpaid one year after the date of billing and that the licensed medical doctor or licensed osteopathic physician has reason to believe will not be paid because:

(a) at the time the services were provided, the person receiving the services had no health insurance or had health insurance that did not cover the services provided;

(b) at the time the services were provided, the person receiving the services was not eligible for medicaid; and

(c) the charges are not reimbursable under a program established pursuant to the Indigent Hospital and County Health Care Act."

## Chapter 361 Section 9 Laws 2007

Section 9. Section 59A-54-10 NMSA 1978 (being Laws 1989, Chapter 154, Section 10, as amended by Laws 2005, Chapter 301, Section 5 and by Laws 2005, Chapter 305, Section 5) is amended to read:

### "59A-54-10. ASSESSMENTS.--

A. Following the close of each fiscal year, the pool administrator shall determine the net premium, being premiums less administrative expense allowances, the pool expenses and claim expense losses for the year, taking into account investment income and other appropriate gains and losses. The assessment for each insurer shall be determined by multiplying the total cost of pool operation by a fraction, the numerator of which equals that insurer's premium and subscriber contract charges or their equivalent for health insurance written in the state during the preceding calendar year and the denominator of which equals the total of all premiums and subscriber contract charges written in the state; provided that premium income shall include receipts of medicaid managed care premiums but shall not include any payments by the secretary of health and human services pursuant to a contract issued under Section 1876 of the Social Security Act, as amended. The board may adopt other or additional methods of adjusting the formula to achieve equity of assessments among pool members, including assessment of health insurers and reinsurers based upon the number of persons they cover through primary, excess and stop-loss insurance in the state.

B. If assessments exceed actual losses and administrative expenses of the pool, the excess shall be held at interest and used by the board to offset future losses or to reduce pool premiums. As used in this subsection, "future losses" includes reserves for incurred but not reported claims.

C. The proportion of participation of each member in the pool shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed with it by the member. Any deficit incurred by the pool shall be recouped by assessments apportioned among the members of the pool pursuant to the assessment formula provided by Subsection A of this section; provided that the assessment for any pool member shall be allowed as a fifty-percent credit on the premium tax return for that member and a seventy-five-percent credit on the premium tax return for that member for the assessments attributable to pool policy holders that receive premiums, in whole or in part, through the federal Ryan White CARE Act, the Ted R. Montoya hemophilia program at the university of New Mexico health sciences center, the children's medical services bureau of the public health division of the department of health or other program receiving state funding or assistance.

D. The board may abate or defer, in whole or in part, the assessment of a member of the pool if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligation. In the event an

assessment against a member of the pool is abated or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other members in a manner consistent with the basis for assessments set forth in Subsection A of this section. The member receiving the abatement or deferment shall remain liable to the pool for the deficiency for four years."

## **Chapter 361 Section 10 Laws 2007**

Section 10. APPLICABILITY.--

A. The provisions of Section 2 of this act apply to taxable years beginning on or after January 1, 2007.

B. The provisions of Section 7 of this act apply to reporting periods beginning on or after July 1, 2007.

C. The premium tax credit in Section 9 of this act shall apply to assessments made pursuant to the Medical Insurance Pool Act beginning on or after July 1, 2007.

## **Chapter 361 Section 11 Laws 2007**

Section 11. EFFECTIVE DATE.--The effective date of the provisions of Sections 3 through 6 and 8 of this act is July 1, 2007.

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House Bill 638, as amended

Approved April 6, 2007

# **LAWS 2007, CHAPTER 362**

AN ACT

RELATING TO ETHICS; AMENDING AND ENACTING SECTIONS OF THE GOVERNMENTAL CONDUCT ACT; PROHIBITING CERTAIN ACTS BY PUBLIC OFFICERS AND EMPLOYEES; PROHIBITING CERTAIN CONTRACTS.

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

## **Chapter 362 Section 1 Laws 2007**

Section 1. Section 10-16-2 NMSA 1978 (being Laws 1967, Chapter 306, Section 2, as amended) is amended to read:

"10-16-2. DEFINITIONS.--As used in the Governmental Conduct Act:

A. "business" means a corporation, partnership, sole proprietorship, firm, organization or individual carrying on a business;

B. "confidential information" means information that by law or practice is not available to the public;

C. "employment" means rendering of services for compensation in the form of salary as an employee;

D. "family" means an individual's spouse, parents, children or siblings, by consanguinity or affinity;

E. "financial interest" means an interest held by an individual or the individual's family that is:

(1) an ownership interest in business; or

(2) any employment or prospective employment for which negotiations have already begun;

F. "official act" means an official decision, recommendation, approval, disapproval or other action that involves the use of discretionary authority;

G. "public officer or employee" means any person who has been elected to, appointed to or hired for any state office and who receives compensation in the form of salary or is eligible for per diem or mileage but excludes legislators;

H. "standards" means the conduct required by the Governmental Conduct Act;

I. "state agency" means any branch, agency, instrumentality or institution of the state; and

J. "substantial interest" means an ownership interest that is greater than twenty percent."

## **Chapter 362 Section 2 Laws 2007**

Section 2. Section 10-16-3 NMSA 1978 (being Laws 1993, Chapter 46, Section 28) is amended to read:

"10-16-3. ETHICAL PRINCIPLES OF PUBLIC SERVICE--CERTAIN OFFICIAL ACTS PROHIBITED--PENALTY.--

A. A legislator, public officer or employee shall treat the legislator's, public officer's or employee's government position as a public trust. The legislator, public officer or employee shall use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests incompatible with the public interest.

B. Legislators, public officers and employees shall conduct themselves in a manner that justifies the confidence placed in them by the people, at all times maintaining the integrity and discharging ethically the high responsibilities of public service.

C. Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct. At all times, reasonable efforts shall be made to avoid undue influence and abuse of office in public service.

D. No legislator, public officer or employee may request or receive, and no person may offer a legislator, public officer or employee, any money, thing of value or promise thereof that is conditioned upon or given in exchange for promised performance of an official act. Any person who knowingly and willfully violates the provisions of this subsection is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

### **Chapter 362 Section 3 Laws 2007**

Section 3. Section 10-16-4 NMSA 1978 (being Laws 1967, Chapter 306, Section 4, as amended) is amended to read:

"10-16-4. OFFICIAL ACT FOR PERSONAL FINANCIAL INTEREST PROHIBITED--DISQUALIFICATION FROM OFFICIAL ACT--PROVIDING A PENALTY.--

A. It is unlawful for a public officer or employee to take an official act for the primary purpose of directly enhancing the public officer's or employee's financial interest or financial position. Any person who knowingly and willfully violates the provisions of this subsection is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

B. A public officer or employee shall be disqualified from engaging in any official act directly affecting the public officer's or employee's financial interest."

### **Chapter 362 Section 4 Laws 2007**

Section 4. Section 10-16-6 NMSA 1978 (being Laws 1967, Chapter 306, Section 6, as amended) is amended to read:

"10-16-6. CONFIDENTIAL INFORMATION.--No legislator, public officer or employee shall use or disclose confidential information acquired by virtue of the legislator's, public officer's or employee's state employment or office for the legislator's, public officer's, employee's or another's private gain."

## **Chapter 362 Section 5 Laws 2007**

Section 5. Section 10-16-7 NMSA 1978 (being Laws 1967, Chapter 306, Section 7, as amended) is amended to read:

"10-16-7. CONTRACTS INVOLVING PUBLIC OFFICERS OR EMPLOYEES.--A state agency shall not enter into a contract for services, construction or items of tangible personal property with a public officer or employee of the state, with the family of the public officer or employee or with a business in which the public officer or employee or the family of the public officer or employee has a substantial interest unless the public officer or employee has disclosed the public officer's or employee's substantial interest and unless the contract is awarded pursuant to the Procurement Code, except that the potential contractor shall not be eligible for a sole source or small purchase contract; provided that this section does not apply to a contract of official employment with the state or to contracts made pursuant to the provisions of the University Research Park Act. A person negotiating or executing a contract on behalf of a state agency shall exercise due diligence to ensure compliance with the provisions of this section."

## **Chapter 362 Section 6 Laws 2007**

Section 6. Section 10-16-9 NMSA 1978 (being Laws 1967, Chapter 306, Section 9, as amended) is amended to read:

"10-16-9. CONTRACTS INVOLVING LEGISLATORS--REPRESENTATION BEFORE STATE AGENCIES.--

A. A state agency shall not enter into a contract for services, construction or items of tangible personal property with a legislator, the legislator's family or with a business in which the legislator or the legislator's family has a substantial interest unless the legislator has disclosed the legislator's substantial interest and unless the contract is awarded in accordance with the provisions of the Procurement Code, except the potential contractor shall not be eligible for a sole source or small purchase contract. A person negotiating or executing a contract on behalf of a state agency shall exercise due diligence to ensure compliance with the provisions of this subsection.

B. A legislator shall not appear for, represent or assist another person in a matter before a state agency, unless without compensation or for the benefit of a constituent, except for legislators who are attorneys or other professional persons engaged in the conduct of their professions and, in those instances, the legislator shall refrain from references to the legislator's legislative capacity except as to matters of scheduling,

from communications on legislative stationery and from threats or implications relating to legislative actions."

## **Chapter 362 Section 7 Laws 2007**

Section 7. Section 10-16-13 NMSA 1978 (being Laws 1967, Chapter 306, Section 13) is amended to read:

"10-16-13. PROHIBITED BIDDING.--No state agency or political subdivision of the state shall accept a bid or proposal from a person who directly participated in the preparation of specifications, qualifications or evaluation criteria on which the specific competitive bid or proposal was based. A person accepting a bid or proposal on behalf of a state agency or political subdivision of this state shall exercise due diligence to ensure compliance with this section."

## **Chapter 362 Section 8 Laws 2007**

Section 8. A new section of the Governmental Conduct Act is enacted to read:

"CERTAIN BUSINESS SALES TO STATE AGENCIES AND THEIR EMPLOYEES PROHIBITED.--

A. A public officer or employee shall not sell or be a party to a transaction to sell goods, services, construction or items of tangible personal property directly or indirectly, through the public officer's or employee's family or a business in which the public officer or employee has a substantial interest, to the state agency with which the public officer or employee is employed. It is not a violation of this subsection if the public officer or employee employed by the state agency in good faith is not aware of:

(1) the substantial interest held by the public officer or employee or the public officer's or employee's family in the business that is selling or engaged in a transaction to sell goods, services, construction or items of tangible personal property to the state agency by which the public officer or employee is employed; or

(2) the sale of or the transaction to sell goods, services, construction or items of tangible personal property by the public officer's or employee's family or by a business in which the public officer or employee or the public officer's or employee's family has a substantial interest to the state agency by which the public officer or employee is employed.

B. A public officer or employee shall not sell, offer to sell, coerce the sale of or be a party to a transaction to sell goods, services, construction or items of tangible personal property, directly or indirectly through the public officer's or employee's family or a business in which the public officer or employee has a substantial interest, to an employee supervised by the public officer or employee. A public officer or employee shall not receive a commission or shall not profit from the sale or a transaction to sell

goods, services, construction or items of tangible personal property to an employee supervised by the public officer or employee. The provisions of this subsection shall not apply if the supervised employee initiates the sale. It is not a violation of this subsection if a public officer or employee, in good faith, is not aware that the employee to whom the goods, services, construction or items of tangible personal property are being sold is under the supervision of the public officer or employee.

C. A public officer or employee shall not sell, offer to sell, coerce the sale of or be a party to a transaction to sell goods, services, construction or items of tangible personal property, directly or indirectly through the public officer's or employee's family or a business in which the public officer or employee has a substantial interest, to a person over whom the public officer or employee has regulatory authority.

D. A public officer or employee shall not receive a commission or shall not profit from the sale or a transaction to sell goods, services, construction or items of tangible personal property to a person over whom the public officer or employee has regulatory authority.

E. A public officer or employee shall not accept from a person over whom the public officer or employee has regulatory authority an offer of employment or an offer of a contract in which the public officer or employee provides goods, services, construction, items of tangible personal property or other things of value to the person over whom the public officer or employee has regulatory authority."

## **Chapter 362 Section 9 Laws 2007**

Section 9. A new section of the Governmental Conduct Act is enacted to read:

"PROHIBITED POLITICAL ACTIVITIES.--Public officers and employees are prohibited from:

A. directly or indirectly coercing or attempting to coerce a state officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for a political purpose;

B. threatening to deny a promotion or pay increase to an employee who does or does not vote for certain candidates, requiring an employee to contribute a percentage of the employee's pay to a political fund, influencing a subordinate employee to purchase a ticket to a political fundraising dinner or similar event, advising an employee to take part in political activity or similar activities; or

C. violating the officer's or employee's duty to not use state property, or allow its use, for other than authorized purposes."

## **Chapter 362 Section 10 Laws 2007**

Section 10. A new section of the Governmental Conduct Act is enacted to read:

"DISCLOSURE OF OUTSIDE EMPLOYMENT.--A public officer or employee shall disclose in writing to the supervisor of the officer or employee, or in the event there is no supervisor, to the secretary of state, all employment engaged in by the officer or employee other than the employment with the state."

### **Chapter 362 Section 11 Laws 2007**

Section 11. A new section of the Governmental Conduct Act is enacted to read:

"PROHIBITED CONTRIBUTIONS--FINANCIAL SERVICE CONTRACTORS.--

A. A business that contracts with a state agency to provide financial services involving the investment of public money or issuance of bonds for public projects shall not knowingly contribute anything of value to a public officer or employee of that state agency who has authority over the investment of public money or issuance of bonds, the revenue of which is used for public projects in the state.

B. A public officer or employee of a state agency that has authority over the investment of public money or issuance of bonds, the revenue of which is used for public projects in the state, shall not knowingly accept a contribution of anything of value from a business that contracts with that state agency to provide financial services involving the investment of public money or issuance of bonds for public projects.

C. For the purposes of this section:

(1) "anything of value" means any money, property, service, loan or promise, but does not include food and refreshments with a value of less than one hundred dollars (\$100) consumed in a day; and

(2) "contribution" means a donation or transfer to a recipient for the personal use of the recipient, without commensurate consideration."

### **Chapter 362 Section 12 Laws 2007**

Section 12. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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House Bill 823, as amended

Approved April 6, 2007

# **LAWS 2007, CHAPTER 363**

**WITH PARTIAL VETO**

AN ACT

MAKING AN APPROPRIATION FOR DEVELOPMENT TRAINING PROGRAMS;  
DECLARING AN EMERGENCY.

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

## **Chapter 363 Section 1 Laws 2007**

Section 1. APPROPRIATION.--Eight million dollars (\$8,000,000) is appropriated from the general fund to the development training fund for expenditure in [~~fiscal year 2007 and~~] subsequent fiscal years for a development training program providing classroom and in-plant training to furnish qualified human resources for certain new or expanding industries and businesses in the state. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

## **Chapter 363 Section 2 Laws 2007**

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 8, as amended

with emergency clause

Approved April 6, 2007

# **LAWS 2007, CHAPTER 364**

**WITH PARTIAL VETO**

AN ACT

RELATING TO HIGHER EDUCATION; CHANGING PROVISIONS AND DISTRIBUTIONS OF THE FACULTY ENDOWMENT FUND; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAWS BY REPEALING LAWS 2003, CHAPTER 379, SECTION 1; MAKING AN APPROPRIATION.

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

## Chapter 364 Section 1 Laws 2007

Section 1. Section 21-1-27.1 NMSA 1978 (being Laws 2002, Chapter 31, Section 1, as amended by Laws 2003, Chapter 379, Section 1 and by Laws 2003, Chapter 392, Section 1) is amended to read:

### "21-1-27.1. FACULTY ENDOWMENT FUND CREATED.--

A. The "faculty endowment fund" is created in the state treasury. The fund shall consist of appropriations, income from investment of the fund, gifts, grants, donations and bequests.

B. The faculty endowment fund shall be administered by the higher education department. Money shall be disbursed only on warrant of the secretary of finance and administration upon voucher signed by the secretary of higher education or the secretary's authorized representative.

C. Money shall be disbursed from the faculty endowment fund only to establish endowments at public post-secondary educational institutions as provided in this section. An institution shall not receive a disbursement for an endowment until that institution has notified the department that it has received matching funds for the endowment from other than governmental sources in the amount specified in this section.

D. Money in the faculty endowment fund is appropriated to the department to be disbursed for endowment purposes, including endowed chairs, lectureships, professorships, scholarships, graduate assistantships, faculty and development programs that will enhance the quality of public post-secondary education in New Mexico. The department, by rule, shall establish procedures for disbursing money from the fund. Not less than five percent of each institution's total endowment effort resulting from amounts specified in this section shall address one or more of the governor's initiatives.

E. Until June 30, 2010, the following institutions shall be eligible for the following disbursements from the fund:

(1) two million dollars (\$2,000,000) each for the university of New Mexico, New Mexico state university and the New Mexico institute of mining and technology and one million five hundred thousand dollars (\$1,500,000) for the university of New Mexico school of medicine; provided that no disbursement shall be made pursuant to this paragraph until the institution has shown to the satisfaction of the department that it has received matching funds in an amount equal to at least fifty percent of the disbursement;

(2) five hundred thousand dollars (\$500,000) each for New Mexico highlands university, eastern New Mexico university, western New Mexico university

and northern New Mexico state school; provided that no disbursement shall be made pursuant to this paragraph until the institution has shown to the satisfaction of the department that it has received matching funds in an amount equal to at least forty percent of the disbursement; and

(3) for the total endowments at the New Mexico military institute, community colleges, branch community colleges and technical and vocational institutes, two million five hundred thousand dollars (\$2,500,000), provided that:

(a) the total amount shall be distributed pursuant to rules of distribution promulgated by the department that ensure each eligible institution an opportunity to receive an equitable share of the total amount to be distributed; and

(b) no disbursement shall be made pursuant to this paragraph until the institution has shown to the satisfaction of the department that it has received matching funds in an amount equal to at least thirty percent of the disbursement.

F. Effective July 1, 2010, funds remaining in the faculty endowment fund may be matched by any public post-secondary institution in this section for the purposes stated in this section in accordance with the rules established by the department.

G. The endowment funds of the institutions shall not be expended but shall be invested by the institutions in accordance with the prudent investor rule, and in accordance with the provisions of Section 21-1-38 NMSA 1978. The income from the investments shall be used by the institutions to provide funding for chairs, lectureships, professorships, scholarships, graduate assistantships and faculty development programs, including paying all or a portion of the salary of the faculty member or the expenses necessary to support associated academic activities.

H. No later than July 1 of 2008, 2009 and 2010, the department shall report to the legislative finance committee on disbursements made pursuant to this section. The report shall include the amounts disbursed to each institution, the amount of matching funds and their source and the purpose of the endowments."

## **Chapter 364 Section 2 Laws 2007**

Section 2. APPROPRIATION.--Twelve million dollars (\$12,000,000) is appropriated from the general fund to the faculty endowment fund for expenditure [~~in~~ ~~fiscal year 2007 and~~] subsequent fiscal years for the purpose of making disbursements for endowments pursuant to Section 21-1-27.1 NMSA 1978. Any unexpended or unencumbered balance remaining at the end of fiscal year 2012 shall revert to the general fund.

## **Chapter 364 Section 3 Laws 2007**

Section 3. REPEAL.--Laws 2003, Chapter 379, Section 1 is repealed.

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House Bill 983, as amended

Approved April 6, 2007

## **LAWS 2007, CHAPTER 365**

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; ESTABLISHING A HOME SCHOOL STUDENT ACTIVITIES PROGRAM UNIT.

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

### **Chapter 365 Section 1 Laws 2007**

Section 1. Section 22-8-18 NMSA 1978 (being Laws 1974, Chapter 8, Section 8, as amended) is amended to read:

"22-8-18. PROGRAM COST CALCULATION--LOCAL RESPONSIBILITY.--

A. The total program units for the purpose of computing the program cost shall be calculated by multiplying the sum of the program units itemized as Paragraphs (1) through (5) in this subsection by the instructional staff training and experience index and adding the program units itemized as Paragraphs (6) through (11) in this subsection. The itemized program units are as follows:

(1) early childhood education;

(2) basic education;

(3) special education, adjusted by subtracting the units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;

(4) bilingual multicultural education;

(5) fine arts education;

(6) size adjustment;

(7) at-risk program;

(8) enrollment growth or new district adjustment;

(9) special education units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;

(10) national board for professional teaching standards certification; and

(11) home school student activities.

B. The total program cost calculated as prescribed in Subsection A of this section includes the cost of early childhood, special, bilingual multicultural, fine arts and vocational education and other remedial or enrichment programs. It is the responsibility of the local school board or governing body of a charter school to determine its priorities in terms of the needs of the community served by that board. Funds generated under the Public School Finance Act are discretionary to local school boards and governing bodies of charter schools, provided that the special program needs as enumerated in this section are met."

## **Chapter 365 Section 2 Laws 2007**

Section 2. A new section of the Public School Finance Act is enacted to read:

"HOME SCHOOL STUDENT ACTIVITIES PROGRAM UNIT.--The home school student activities program unit for a school district is determined by multiplying the number of home school students who are participating in school district activities governed by the New Mexico activities association by the cost differential factor of 0.1. The home school student activities program unit shall be paid to the school district in which it is generated. A home school student is eligible to participate in one school district athletic activity at the public school in the attendance zone in which the student resides, according to the New Mexico activities association guidelines. The school district shall verify each home school student's academic eligibility to participate in school district athletic activities."

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Senate Bill 1098, as amended

Approved April 6, 2007

## **LAWS 2007, CHAPTER 366**

**WITH PARTIAL VETO**

AN ACT

RELATING TO PUBLIC SCHOOL FACILITIES; PROVIDING THAT CERTAIN SCHOOL CONSTRUCTION PROJECTS MAY BE EXEMPTED FROM SOME STATE OVERSIGHT; AMENDING THE PUBLIC SCHOOL CAPITAL OUTLAY ACT TO

CHANGE THE CRITERIA FOR OFFSETTING AMOUNTS FROM STATE GRANTS, TO REQUIRE SPACE UTILIZATION TO BE CONSIDERED, TO ALLOW ADDITIONAL GRANTS TO CERTAIN SCHOOL DISTRICTS, TO INCREASE GRANTS TO SCHOOLS FOR LEASE PAYMENTS, TO ALLOW CERTAIN FACILITIES TO BE PURCHASED WITH STATE GRANTS AND TO EXTEND THE TIME FOR WHICH CERTAIN EXPENDITURES MAY BE MADE; AMENDING THE PUBLIC SCHOOL CAPITAL IMPROVEMENTS ACT TO INCREASE THE STATE DISTRIBUTION; AMENDING THE PUBLIC SCHOOL BUILDINGS ACT TO ALLOW REVENUE TO BE USED FOR PROJECT MANAGEMENT, TO INCREASE THE PERIOD FOR WHICH A TAX MAY BE IMPOSED AND TO AUTHORIZE DIRECT PAYMENT OF REVENUE TO CHARTER SCHOOLS; ALLOWING CHARTER SCHOOLS AND SCHOOL DISTRICTS TO ENTER INTO LEASE AGREEMENTS; ALLOWING CERTAIN TYPES OF LEASE-PURCHASE ARRANGEMENTS TO BE FUNDED WITH CERTAIN STATE GRANTS AND CERTAIN TAX REVENUES; CREATING THE PUBLIC SCHOOL FACILITY OPPORTUNITY FUND; AUTHORIZING GRANTS FROM THE FUND TO CERTAIN SCHOOL DISTRICTS FOR CERTAIN PURPOSES; PROVIDING THAT A PORTION OF THE UNENCUMBERED BALANCE OF CERTAIN GENERAL FUND APPROPRIATIONS SHALL REVERT TO THE FUND; PROVIDING THAT A PORTION OF EACH SPECIAL APPROPRIATION FOR A PUBLIC SCHOOL SHALL BE SET ASIDE AND TRANSFERRED TO THE FUND; PROVIDING THAT CERTAIN COMPONENTS MAY BE SEPARATELY PRICED IN SCHOOL CONSTRUCTION CONTRACTS; RECOMPILING A CERTAIN SECTION OF THE PUBLIC SCHOOL CODE; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2006; MAKING APPROPRIATIONS.

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

### **Chapter 366 Section 1 Laws 2007**

Section 1. Section 22-20-1 NMSA 1978 (being Laws 1967, Chapter 16, Section 270, as amended by Laws 2006, Chapter 94, Section 54 and by Laws 2006, Chapter 95, Section 1) is amended to read:

"22-20-1. SCHOOL CONSTRUCTION--APPROVAL OF THE PUBLIC SCHOOL FACILITIES AUTHORITY--COMPLIANCE WITH STATEWIDE ADEQUACY STANDARDS--STATE CONSTRUCTION AND FIRE STANDARDS APPLICABLE.--

A. Except as provided in Subsection D of this section, each local school board or governing body of a charter school shall secure the approval of the director of the public school facilities authority or the director's designee prior to the construction or letting of contracts for construction of any school building or related school structure or before reopening an existing structure that was formerly used as a school building but that has not been used for that purpose during the previous year. A written application shall be submitted to the director requesting approval of the construction, and, upon receipt, the director shall forward a copy of the application to the secretary. The director shall prescribe the form of the application, which shall include the following:

- (1) a statement of need;
- (2) the anticipated number of students affected by the construction;
- (3) the estimated cost;
- (4) a description of the proposed construction project;
- (5) a map of the area showing existing school attendance centers within a five-mile radius and any obstructions to attending the attendance centers, such as railroad tracks, rivers and limited-access highways; and
- (6) other information as may be required by the director.

B. The director or the director's designee shall give approval to an application if the director or designee reasonably determines that:

- (1) the construction will not cause an unnecessary proliferation of school construction;
- (2) the construction is needed in the school district or by the charter school;
- (3) the construction is feasible;
- (4) the cost of the construction is reasonable;
- (5) the school district or charter school has submitted a five-year facilities plan that includes:
  - (a) enrollment projections;
  - (b) a current preventive maintenance plan;
  - (c) the capital needs of charter schools chartered by the school district, if applicable, or the capital needs of the charter school if it is state-chartered; and
  - (d) projections for the facilities needed in order to maintain a full-day kindergarten program;
- (6) the construction project:
  - (a) is in compliance with the statewide adequacy standards adopted pursuant to the Public School Capital Outlay Act; and

(b) is appropriately integrated into the school district or charter school five-year facilities plan;

(7) the school district or charter school is financially able to pay for the construction; and

(8) the secretary has certified that the construction will support the educational program of the school district or charter school.

C. Within thirty days after the receipt of an application filed pursuant to this section, the director or the director's designee shall in writing notify the local school board or governing body of a charter school making the application and the department of approval or disapproval of the application.

D. By rule, the public school capital outlay council may:

(1) exempt classes or types of construction from the application and approval requirements of this section; or

(2) exempt classes or types of construction from the requirement of approval but, if the council determines that information concerning the construction is necessary for the maintenance of the facilities assessment database, require a description of the proposed construction project and related information to be submitted to the public school facilities authority.

E. A local school board or governing body of a charter school shall not enter into a contract for the construction of a public school facility, including contracts funded with insurance proceeds, unless the contract contains provisions requiring the construction to be in compliance with the statewide adequacy standards adopted pursuant to the Public School Capital Outlay Act, provided that, for a contract funded in whole or in part with insurance proceeds:

(1) the cost of settlement of any insurance claim shall not be increased by inclusion of the insurance proceeds in the construction contract; and

(2) insurance claims settlements shall continue to be governed by insurance policies, memoranda of coverage and rules related to them.

F. Public school facilities shall be constructed pursuant to state standards or codes promulgated pursuant to the Construction Industries Licensing Act and rules adopted pursuant to Section 59A-52-15 NMSA 1978 for the prevention and control of fires in public occupancies. Building standards or codes adopted by a municipality or county do not apply to the construction of public school facilities, except those structures constructed as a part of an educational program of a school district or charter school.

G. The provisions of Subsection F of this section relating to fire protection shall not be effective until the public regulation commission has adopted the International Fire Code and all standards related to that code.

H. As used in this section, "construction" means any project for which the construction industries division of the regulation and licensing department requires permitting and for which the estimated total cost exceeds two hundred thousand dollars (\$200,000)."

## **Chapter 366 Section 2 Laws 2007**

Section 2. A new section of the Procurement Code is enacted to read:

"SCHOOL CONSTRUCTION PROJECTS--SEPARATE PRICING REQUIRED IN CERTAIN CIRCUMSTANCES.--Prior to submitting a bid or proposal for a state or local public works project for the construction of a public school facility, if the central purchasing office or a responsible bidder or responsible offeror determines that there is only one source for a specific service, construction or item of tangible personal property that is required in the specifications, then the central purchasing office, responsible bidder or responsible offeror may require any bid or offer submitted by a subcontractor or supplier to separately price the specific service, construction or item of tangible personal property."

## **Chapter 366 Section 3 Laws 2007**

Section 3. Section 22-24-4 NMSA 1978 (being Laws 1975, Chapter 235, Section 4, as amended) is amended to read:

"22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND CREATED--USE.--

A. The "public school capital outlay fund" is created. Balances remaining in the fund at the end of each fiscal year shall not revert.

B. Except as provided in Section 22-24-5.8 NMSA 1978 and in Subsections G through L of this section, money in the fund may be used only for capital expenditures deemed by the council necessary for an adequate educational program.

C. The council may authorize the purchase by the public school facilities authority of portable classrooms to be loaned to school districts to meet a temporary requirement. Payment for these purchases shall be made from the fund. Title and custody to the portable classrooms shall rest in the public school facilities authority. The council shall authorize the lending of the portable classrooms to school districts upon request and upon finding that sufficient need exists. Application for use or return of state-owned portable classroom buildings shall be submitted by school districts to the council. Expenses of maintenance of the portable classrooms while in the custody of the public school facilities authority shall be paid from the fund; expenses of maintenance

and insurance of the portable classrooms while in the custody of a school district shall be the responsibility of the school district. The council may authorize the permanent disposition of the portable classrooms by the public school facilities authority with prior approval of the state board of finance.

D. Applications for assistance from the fund shall be made by school districts to the council in accordance with requirements of the council. Except as provided in Subsection K of this section, the council shall require as a condition of application that a school district have a current five-year facilities plan, which shall include a current preventive maintenance plan to which the school adheres for each public school in the school district.

E. The council shall review all requests for assistance from the fund and shall allocate funds only for those capital outlay projects that meet the criteria of the Public School Capital Outlay Act.

F. Money in the fund shall be disbursed by warrant of the department of finance and administration on vouchers signed by the secretary of finance and administration following certification by the council that an application has been approved or an expenditure has been ordered by a court pursuant to Section 22-24-5.4 NMSA 1978. At the discretion of the council, money for a project shall be distributed as follows:

(1) up to ten percent of the portion of the project cost funded with distributions from the fund or five percent of the total project cost, whichever is greater, may be paid to the school district before work commences with the balance of the grant award made on a cost-reimbursement basis; or

(2) the council may authorize payments directly to the contractor.

G. Balances in the fund may be annually appropriated for the core administrative functions of the public school facilities authority pursuant to the Public School Capital Outlay Act and, in addition, balances in the fund may be expended by the public school facilities authority, upon approval of the council, for project management expenses; provided that:

(1) the total annual expenditures from the fund pursuant to this subsection shall not exceed five percent of the average annual grant assistance authorized from the fund during the three previous fiscal years; and

(2) any unexpended or unencumbered balance remaining at the end of a fiscal year from the expenditures authorized in this subsection shall revert to the fund.

H. Up to thirty million dollars (\$30,000,000) of the fund may be allocated annually by the council in fiscal years 2006 and 2007 for a roof repair and replacement initiative with projects to be identified by the council pursuant to Section 22-24-4.3 NMSA 1978;

provided that all money allocated pursuant to this subsection shall be expended prior to September 1, 2008.

I. The fund may be expended annually by the council in fiscal years 2006 through 2020 for grants to school districts for the purpose of making lease payments for classroom facilities, including facilities leased by charter schools. The grants shall be made upon application by the school districts and pursuant to rules adopted by the council; provided that an application on behalf of a charter school shall be made by the school district but, if the school district fails to make an application on behalf of a charter school, the charter school may submit its own application. The following criteria shall apply to the grants:

(1) the amount of a grant to a school district shall not exceed:

(a) the actual annual lease payments owed for leasing classroom space for schools, including charter schools, in the district; or

(b) seven hundred dollars (\$700) multiplied by the number of MEM using the leased classroom facilities; provided that in fiscal year 2009 and in each subsequent fiscal year, this amount shall be adjusted by the percentage increase between the penultimate calendar year and the immediately preceding calendar year of the consumer price index for the United States, all items, as published by the United States department of labor; and provided further that if the total grants awarded pursuant to this paragraph would exceed the total annual amount available, the rate specified in this subparagraph shall be reduced proportionately;

(2) a grant received for the lease payments of a charter school may be used by that charter school as a state match necessary to obtain federal grants pursuant to the federal No Child Left Behind Act of 2001;

(3) at the end of each fiscal year, any unexpended or unencumbered balance of the appropriation shall revert to the fund;

(4) if the lease payments are made pursuant to a financing agreement under which the facilities may be purchased for a price that is reduced according to the lease payments made:

(a) a grant shall not be made unless the council determines that the leased facilities meet the statewide adequacy standards; and

(b) neither a grant nor any provision of the Public School Capital Outlay Act creates a legal obligation for the school district or charter school to continue the lease from year to year or to purchase the facilities nor does it create a legal obligation for the state to make subsequent grants pursuant to the provisions of this subsection;

(5) the total amount expended from the fund pursuant to this subsection shall not exceed:

(a) seven million five hundred thousand dollars (\$7,500,000) in fiscal year 2007; and

(b) in fiscal year 2008 and each subsequent fiscal year, the maximum amount for the previous fiscal year adjusted by the percentage increase between the penultimate calendar year and the immediately preceding calendar year of the consumer price index for the United States, all items, as published by the United States department of labor; and

(6) as used in this subsection:

(a) "MEM" means: 1) the average

full-time-equivalent enrollment using leased classroom facilities on the eightieth and one hundred twentieth days of the prior school year; or 2) in the case of an approved charter school that has not commenced classroom instruction, the estimated full-time-equivalent enrollment that will use leased classroom facilities in the first year of instruction, as shown in the approved charter school application; provided that, after the eightieth day of the school year, the MEM shall be adjusted to reflect the full-time-equivalent enrollment on that date; and

(b) "classroom facilities" or "classroom space" includes the space needed, as determined by the minimum required under the statewide adequacy standards, for the direct administration of school activities.

J. In addition to other authorized expenditures from the fund, up to one percent of the average grant assistance authorized from the fund during the three previous fiscal years may be expended in each fiscal year by the public school facilities authority to reimburse the state fire marshal, the construction industries division of the regulation and licensing department and local jurisdictions having authority from the state to permit and inspect projects for expenditures made to permit and inspect projects funded in whole or in part under the Public School Capital Outlay Act. The authority shall enter into contracts with the state fire marshal, the construction industries division or the appropriate local authorities to carry out the provisions of this subsection.

K. Pursuant to guidelines established by the council, allocations from the fund may be made to assist school districts in developing and updating five-year facilities plans required by the Public School Capital Outlay Act; provided that:

(1) no allocation shall be made unless the council determines that the school district is willing and able to pay the portion of the total cost of developing or updating the plan that is not funded with the allocation from the fund. Except as provided in Paragraph (2) of this subsection, the portion of the total cost to be paid with

the allocation from the fund shall be determined pursuant to the methodology in Paragraph (5) of Subsection B of Section

22-24-5 NMSA 1978; or

(2) the allocation from the fund may be used to pay the total cost of developing or updating the plan if:

(a) the school district has fewer than an average of six hundred full-time-equivalent students on the eightieth and one hundred twentieth days of the prior school year; or

(b) the school district meets all of the following requirements: 1) the school district has fewer than an average of one thousand full-time-equivalent students on the eightieth and one hundred twentieth days of the prior school year; 2) the school district has at least seventy percent of its students eligible for free or reduced-fee lunch; 3) the state share of the total cost, if calculated pursuant to the methodology in Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978, would be less than fifty percent; and 4) for all educational purposes, the school district has a residential property tax rate of at least seven dollars (\$7.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds.

L. Upon application by a school district, allocations from the fund may be made by the council for the purpose of demolishing abandoned school district facilities, provided that:

(1) the costs of continuing to insure an abandoned facility outweigh any potential benefit when and if a new facility is needed by the school district;

(2) there is no practical use for the abandoned facility without the expenditure of substantial renovation costs; and

(3) the council may enter into an agreement with the school district under which an amount equal to the savings to the district in lower insurance premiums are used to fully or partially reimburse the fund for the demolition costs allocated to the district."

## **Chapter 366 Section 4 Laws 2007**

Section 4. Section 22-24-4.1 NMSA 1978 (being Laws 2001, Chapter 338, Section 6, as amended) is amended to read:

"22-24-4.1. OUTSTANDING DEFICIENCIES--ASSESSMENT--CORRECTION.--

A. No later than September 1, 2001, the council shall define and develop guidelines, consistent with the codes adopted by the construction industries commission pursuant to the Construction Industries Licensing Act, for school districts to use to identify outstanding serious deficiencies in public school buildings and grounds, including buildings and grounds of charter schools, that may adversely affect the health or safety of students and school personnel.

B. A school district shall use these guidelines to complete a self-assessment of the outstanding health or safety deficiencies within the school district and provide cost projections to correct the outstanding deficiencies.

C. The council shall develop a methodology for prioritizing projects that will correct the deficiencies.

D. After a public hearing and to the extent that money is available in the fund for such purposes, the council shall approve allocations from the fund on the established priority basis and, working with the school district and pursuant to the Procurement Code, enter into construction contracts with contractors to correct the deficiencies.

E. In entering into construction contracts to correct deficiencies pursuant to this section, the council shall include such terms and conditions as necessary to ensure that the state money is expended in the most prudent manner possible and consistent with the original purpose.

F. Any deficiency that may adversely affect the health or safety of students or school personnel may be corrected pursuant to this section, regardless of the local effort or percentage of indebtedness of the school district.

G. It is the intent of the legislature that all outstanding deficiencies in public schools and grounds that may adversely affect the health or safety of students and school personnel be identified and awards made pursuant to this section no later than June 30, 2005, and that funds be expended no later than June 30, 2007, provided that the council may extend the expenditure period upon a determination that a project requires the additional time because existing buildings need to be demolished or because of other extenuating circumstances."

## **Chapter 366 Section 5 Laws 2007**

Section 5. Section 22-24-4.4 NMSA 1978 (being Laws 2005, Chapter 274, Section 7) is amended to read:

"22-24-4.4. SERIOUS ROOF DEFICIENCIES--CORRECTION.--

A. To complete the program to correct outstanding deficiencies, those serious deficiencies in the roofs of public school facilities identified pursuant to Section 22-24-4.1 NMSA 1978 as adversely affecting the health or safety of students and school

personnel shall be corrected pursuant to this section, regardless of the local effort or percentage of indebtedness of the school district, subject to the following provisions:

(1) if the council determines that the school district has excess capital improvement funds received pursuant to the Public School Capital Improvements Act, the cost of correcting the deficiencies shall first come from the school district's excess funds, and if the excess funds are insufficient to correct the deficiencies, the difference shall be paid from the public school capital outlay fund; and

(2) if the school district refuses to pay its share of the cost of correcting deficiencies as determined pursuant to Paragraph (1) of this subsection, future distributions from the public school capital improvements fund pursuant to Section 22-25-9 NMSA 1978 shall not be made to the school district but shall be made to the public school capital outlay fund until the public school capital outlay fund is reimbursed in full for the school district's share.

B. It is the intent of the legislature that all awards for correcting outstanding deficiencies in public school roofs that may adversely affect the health and safety of students and school personnel be made pursuant to this section no later than September 30, 2005 and that funds be expended no later than September 30, 2008."

## **Chapter 366 Section 6 Laws 2007**

Section 6. Section 22-24-5 NMSA 1978 (being Laws 1975, Chapter 235, Section 5, as amended) is amended to read:

"22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--APPLICATION--  
GRANT ASSISTANCE.--

A. Applications for grant assistance, the approval of applications, the prioritization of projects and grant awards shall be conducted pursuant to the provisions of this section.

B. Except as provided in Sections 22-24-4.3, 22-24-5.4 and 22-24-5.6 NMSA 1978, the following provisions govern grant assistance from the fund for a public school capital outlay project not wholly funded pursuant to Section 22-24-4.1 NMSA 1978:

(1) all school districts are eligible to apply for funding from the fund, regardless of percentage of indebtedness;

(2) priorities for funding shall be determined by using the statewide adequacy standards developed pursuant to Subsection C of this section; provided that:

(a) the council shall apply the standards to charter schools to the same extent that they are applied to other public schools; and

(b) in an emergency in which the health or safety of students or school personnel is at immediate risk or in which there is a threat of significant property damage, the council may award grant assistance for a project using criteria other than the statewide adequacy standards;

(3) the council shall establish criteria to be used in public school capital outlay projects that receive grant assistance pursuant to the Public School Capital Outlay Act. In establishing the criteria, the council shall consider:

(a) the feasibility of using design, build and finance arrangements for public school capital outlay projects;

(b) the potential use of more durable construction materials that may reduce long-term operating costs;

(c) concepts that promote efficient but flexible utilization of space;  
and

(d) any other financing or construction concept that may maximize the dollar effect of the state grant assistance;

(4) no more than ten percent of the combined total of grants in a funding cycle shall be used for retrofitting existing facilities for technology infrastructure;

(5) except as provided in Paragraph (6) or (8) of this subsection, the state share of a project approved and ranked by the council shall be funded within available resources pursuant to the provisions of this paragraph. No later than May 1 of each calendar year, a value shall be calculated for each school district in accordance with the following procedure:

(a) the final prior year net taxable value for a school district divided by the MEM for that school district is calculated for each school district;

(b) the final prior year net taxable value for the whole state divided by the MEM for the state is calculated;

(c) excluding any school district for which the result calculated pursuant to Subparagraph (a) of this paragraph is more than twice the result calculated pursuant to Subparagraph (b) of this paragraph, the results calculated pursuant to Subparagraph (a) of this paragraph are listed from highest to lowest;

(d) the lowest value listed pursuant to Subparagraph (c) of this paragraph is subtracted from the highest value listed pursuant to that subparagraph;

(e) the value calculated pursuant to Subparagraph (a) of this paragraph for the subject school district is subtracted from the highest value listed in Subparagraph (c) of this paragraph;

(f) the result calculated pursuant to Subparagraph (e) of this paragraph is divided by the result calculated pursuant to Subparagraph (d) of this paragraph;

(g) the sum of the property tax mill levies for the prior tax year imposed by each school district on residential property pursuant to Chapter 22, Article 18 NMSA 1978, the Public School Capital Improvements Act, the Public School Buildings Act, the Education Technology Equipment Act and Paragraph (2) of Subsection B of Section 7-37-7 NMSA 1978 is calculated for each school district;

(h) the lowest value calculated pursuant to Subparagraph (g) of this paragraph is subtracted from the highest value calculated pursuant to that subparagraph;

(i) the lowest value calculated pursuant to Subparagraph (g) of this paragraph is subtracted from the value calculated pursuant to that subparagraph for the subject school district;

(j) the value calculated pursuant to Subparagraph (i) of this paragraph is divided by the value calculated pursuant to Subparagraph (h) of this paragraph;

(k) if the value calculated for a subject school district pursuant to Subparagraph (j) of this paragraph is less than five-tenths, then, except as provided in Subparagraph (n) or (o) of this paragraph, the value for that school district equals the value calculated pursuant to Subparagraph (f) of this paragraph;

(l) if the value calculated for a subject school district pursuant to Subparagraph (j) of this paragraph is five-tenths or greater, then that value is multiplied by five-hundredths;

(m) if the value calculated for a subject school district pursuant to Subparagraph (j) of this paragraph is five-tenths or greater, then the value calculated pursuant to Subparagraph (l) of this paragraph is added to the value calculated pursuant to Subparagraph (f) of this paragraph. Except as provided in Subparagraph (n) or (o) of this paragraph, the sum equals the value for that school district;

(n) in those instances in which the calculation pursuant to Subparagraph (k) or (m) of this paragraph yields a value less than one-tenth, one-tenth shall be used as the value for the subject school district;

(o) in those instances in which the calculation pursuant to Subparagraph (k) or (m) of this paragraph yields a value greater than one, one shall be used as the value for the subject school district;

(p) except as provided in Section 22-24-5.7 or 22-24-5.8 NMSA 1978 and except as adjusted pursuant to Paragraph (6) or (8) of this subsection, the amount to be distributed from the fund for an approved project shall equal the total project cost multiplied by a fraction the numerator of which is the value calculated for the subject school district in the current year plus the value calculated for that school district in each of the two preceding years and the denominator of which is three; and

(q) as used in this paragraph: 1) "MEM" means the average full-time-

equivalent enrollment of students attending public school in a school district on the eightieth and one hundred twentieth days of the prior school year; 2) "total project cost" means the total amount necessary to complete the public school capital outlay project less any insurance reimbursement received by the school district for the project; and 3) in the case of a state-

chartered charter school that has submitted an application for grant assistance pursuant to this section, the "value calculated for the subject school district" means the value calculated for the school district in which the state-chartered charter school is physically located;

(6) the amount calculated pursuant to Subparagraph (p) of Paragraph (5) of this subsection shall be reduced by the following procedure:

(a) the total of all legislative appropriations made after January 1, 2003 for nonoperating purposes either directly to the subject school district or to another governmental entity for the purpose of passing the money through directly to the subject school district, and not rejected by the subject school district, is calculated; provided that: 1) an appropriation made in a fiscal year shall be deemed to be accepted by a school district unless, prior to June 1 of that fiscal year, the school district notifies the department of finance and administration and the public education department that the district is rejecting the appropriation; 2) the total shall exclude any educational technology appropriation made prior to January 1, 2005 unless the appropriation was on or after January 1, 2003 and not previously used to offset distributions pursuant to the Technology for Education Act; 3) the total shall exclude any appropriation previously made to the subject school district that is reauthorized for expenditure by another recipient; 4) the total shall exclude one-half of the amount of any appropriation made or reauthorized after January 1, 2007 if the purpose of the appropriation or reauthorization is to fund, in whole or in part, a capital outlay project that, when prioritized by the council pursuant to this section either in the immediately preceding funding cycle or in the

current funding cycle, ranked in the top one hundred fifty projects statewide; and 5) unless the grant award is made to the state-chartered charter school or unless the appropriation was previously used to calculate a reduction pursuant to this paragraph, the total shall exclude appropriations made after January 1, 2007 for nonoperating purposes of a specific state-chartered charter school, regardless of whether the charter school is a state-chartered charter school at the time of the appropriation or later opts to become a state-chartered charter school;

(b) the applicable fraction used for the subject school district and the current calendar year for the calculation in Subparagraph (p) of Paragraph (5) of this subsection is subtracted from one;

(c) the value calculated pursuant to Subparagraph (a) of this paragraph for the subject school district is multiplied by the amount calculated pursuant to Subparagraph (b) of this paragraph for that school district;

(d) the total amount of reductions for the subject school district previously made pursuant to Subparagraph (e) of this paragraph for other approved public school capital outlay projects is subtracted from the amount calculated pursuant to Subparagraph (c) of this paragraph; and

(e) the amount calculated pursuant to Subparagraph (p) of Paragraph (5) of this subsection shall be reduced by the amount calculated pursuant to Subparagraph (d) of this paragraph;

(7) as used in Paragraphs (5) and (6) of this subsection, "subject school district" means the school district that has submitted the application for funding and in which the approved public school capital outlay project will be located;

(8) the council may adjust the amount of local share otherwise required if it determines that a school district has used all of its local resources. Before making any adjustment to the local share, the council shall consider whether:

(a) the school district has insufficient bonding capacity over the next four years to provide the local match necessary to complete the project and, for all educational purposes, has a residential property tax rate of at least ten dollars (\$10.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds;

(b) the school district: 1) has fewer than an average of eight hundred full-time-equivalent students on the eightieth and one hundred twentieth days of the prior school year; 2) has at least seventy percent of its students eligible for free or reduced-fee lunch; 3) has a share of the total project cost, as calculated pursuant to provisions of this section, that would be greater than fifty percent; and 4) for all educational purposes, has a residential property tax rate of at least seven dollars

(\$7.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds; or

(c) the school district has: 1) an enrollment growth rate over the previous school year of at least two and one-half percent; 2) pursuant to its five-year facilities plan, will be building a new school within the next two years; and 3) for all educational purposes, has a residential property tax rate of at least ten dollars (\$10.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds; and

(9) no application for grant assistance from the fund shall be approved unless the council determines that:

(a) the public school capital outlay project is needed and included in the school district's

five-year facilities plan among its top priorities;

(b) the school district has used its capital resources in a prudent manner;

(c) the school district has provided insurance for buildings of the school district in accordance with the provisions of Section 13-5-3 NMSA 1978;

(d) the school district has submitted a five-year facilities plan that includes: 1) enrollment projections; 2) a current preventive maintenance plan that has been approved by the council pursuant to Section 22-24-5.3 NMSA 1978 and that is followed by each public school in the district; 3) the capital needs of charter schools located in the school district; and 4) projections for the facilities needed in order to maintain a full-day kindergarten program;

(e) the school district is willing and able to pay any portion of the total cost of the public school capital outlay project that, according to Paragraph (5), (6) or (8) of this subsection, is not funded with grant assistance from the fund; provided that school district funds used for a project that was initiated after September 1, 2002 when the statewide adequacy standards were adopted, but before September 1, 2004 when the standards were first used as the basis for determining the state and school district share of a project, may be applied to the school district portion required for that project;

(f) the application includes the capital needs of any charter school located in the school district or the school district has shown that the facilities of the charter school have a smaller deviation from the statewide adequacy standards than other district facilities included in the application; and

(g) the school district has agreed, in writing, to comply with any reporting requirements or conditions imposed by the council pursuant to Section 22-24-5.1 NMSA 1978.

C. After consulting with the public school capital outlay oversight task force and other experts, the council shall regularly review and update statewide adequacy standards applicable to all school districts. The standards shall establish the acceptable level for the physical condition and capacity of buildings, the educational suitability of facilities and the need for technological infrastructure. Except as otherwise provided in the Public School Capital Outlay Act, the amount of outstanding deviation from the standards shall be used by the council in evaluating and prioritizing public school capital outlay projects.

D. The acquisition of a facility by a school district or charter school pursuant to a financing agreement that provides for lease payments with an option to purchase for a price that is reduced according to lease payments made may be considered a public school capital outlay project and eligible for grant assistance under this section pursuant to the following criteria:

(1) no grant shall be awarded unless the council finds that, prior to the purchase of the facility by the school district or charter school, the facility will equal or exceed the statewide adequacy standards and the building standards for public school facilities;

(2) no grant shall be awarded unless the school district and the need for the facility meet all of the requirements for grant assistance pursuant to the Public School Capital Outlay Act;

(3) the total project cost shall equal the total payments that would be due under the agreement if the school district or charter school would eventually acquire title to the facility;

(4) the portion of the total project cost to be paid from the fund may be awarded as one grant, but disbursements from the fund shall be made from time to time as lease payments become due;

(5) the portion of the total project cost to be paid by the school district or charter school may be paid from time to time as lease payments become due; and

(6) neither a grant award nor any provision of the Public School Capital Outlay Act creates a legal obligation for the school district or charter school to continue the lease from year to year or to purchase the facility.

E. In order to encourage private capital investment in the construction of public school facilities, the purchase of a privately owned school facility that is, at the time of

application, in use by a school district may be considered a public school capital outlay project and eligible for grant assistance pursuant to this section if the council finds that:

(1) at the time of the initial use by the school district, the facility to be purchased equaled or exceeded the statewide adequacy standards and the building standards for public school facilities;

(2) at the time of application, attendance at the facility to be purchased is at seventy-five percent or greater of design capacity and the attendance at other schools in the school district that the students at the facility would otherwise attend is at eighty-five percent or greater of design capacity; and

(3) the school district and the capital outlay project meet all of the requirements for grant assistance pursuant to the Public School Capital Outlay Act; provided that, when determining the deviation from the statewide adequacy standards for the purposes of evaluating and prioritizing the project, the students using the facility shall be deemed to be attending other schools in the school district.

F. It is the intent of the legislature that grant assistance made pursuant to this section allows every school district to meet the standards developed pursuant to Subsection C of this section; provided, however, that nothing in the Public School Capital Outlay Act or the development of standards pursuant to that act prohibits a school district from using local funds to exceed the statewide adequacy standards.

G. Upon request, the council shall work with, and provide assistance and information to, the public school capital outlay oversight task force.

H. The council may establish committees or task forces, not necessarily consisting of council members, and may use the committees or task forces, as well as existing agencies or organizations, to conduct studies, conduct surveys, submit recommendations or otherwise contribute expertise from the public schools, programs, interest groups and segments of society most concerned with a particular aspect of the council's work.

I. Upon the recommendation of the public school facilities authority, the council shall develop building standards for public school facilities and shall promulgate other such rules as are necessary to carry out the provisions of the Public School Capital Outlay Act.

J. No later than December 15 of each year, the council shall prepare a report summarizing its activities during the previous fiscal year. The report shall describe in detail all projects funded, the progress of projects previously funded but not completed, the criteria used to prioritize and fund projects and all other council actions. The report shall be submitted to the public education commission, the governor, the legislative finance committee, the legislative education study committee and the legislature."

## Chapter 366 Section 7 Laws 2007

~~[Section 7. A new section of the Public School Capital Outlay Act, Section 22-24-5.8 NMSA 1978, is enacted to read:~~

~~"22-24-5.8. SUPPLEMENTAL FUNDING FOR PROJECTS IN CERTAIN SCHOOL DISTRICTS.--~~

~~----- A. A school district receiving grant assistance from the fund pursuant to Section 22-~~

~~24-5 NMSA 1978 for a public school capital outlay project shall receive an additional grant from the fund in order for the project to exceed the statewide adequacy standards if the school district and proposed use of the additional grant qualify pursuant to the provisions of Subsection B of this section.~~

~~----- B. A school district shall receive the additional grant if the council determines that:~~

~~----- (1) in calculating the grant assistance from the fund for the project pursuant to Section 22-24-5 NMSA 1978, the value calculated for the school district pursuant to Subparagraph (k), (m), (n) or (o) of Paragraph (5) of Subsection B of that section is equal to or greater than seven-tenths;~~

~~----- (2) averaged over the previous four property tax years, the school district had a residential property tax rate of at least nine dollars (\$9.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds;~~

~~----- (3) at least seventy percent of the students in the school district are eligible for free or reduced-fee lunch;~~

~~----- (4) for the next four years, the school district will not have sufficient local resources to expend on the project so it is unlikely that the project will ever exceed the statewide adequacy standards; and~~

~~----- (5) the planned use of the additional grant to exceed the statewide adequacy standards will enhance public school education in the school district, will further the school district's educational plan for student success and is a prudent use of state money.~~

~~----- C. The amount of an additional grant awarded pursuant to this section shall equal the total project cost multiplied by the lesser of:~~

~~\_\_\_\_\_ (1) the value calculated for the school district pursuant to Subparagraph (k), (m), (n) or (o) of Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978 minus six-~~

~~tenths; or~~

~~\_\_\_\_\_ (2) twenty-five hundredths.~~

~~\_\_\_\_\_ D. All provisions of the Public School Capital Outlay Act relating to the expenditure of other grants awarded from the fund, including those provisions relating to reporting, oversight, project access and accountability, apply to the use and expenditure of additional grants made pursuant to this section."~~

## **Chapter 366 Section 8 Laws 2007**

~~[Section 8. A new section of the Public School Capital Outlay Act, Section 22-24-12 NMSA 1978, is enacted to read:~~

~~\_\_\_\_\_ "22-24-12. PUBLIC SCHOOL FACILITY OPPORTUNITY FUND--PURPOSE--  
GRANTS FROM THE FUND.--~~

~~\_\_\_\_\_ A. The legislature finds that for many years, until relatively recently, educational facilities in a few school districts in New Mexico were so inadequate because of a lack of local resources and little support from the state that the quality of education offered to students in those school districts was extremely substandard. The legislature further finds that, even under the current program to bring all public school facilities up to a minimum statewide adequacy standard, because of a continuing shortage in available local resources, some school districts will not be able to exceed that minimum in the foreseeable future and, therefore, will not have the opportunity to provide their students with the same quality of educational facilities as students in school districts that have sufficient local resources to surpass the minimum standards. The purpose of this section is to partially correct those past inequities by providing a program of state support for qualifying school districts so that minimum statewide adequacy standards may be exceeded on stand-alone projects on existing facilities.~~

~~\_\_\_\_\_ B. The "public school facility opportunity fund" is created in the state treasury. The fund shall consist of transfers, appropriations, reversions, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year. Money in the fund is appropriated to the council for the purposes of making grants so that the facilities of qualifying school districts may, pursuant to the requirements of this section, exceed statewide adequacy standards. Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the director of the public school facilities authority.~~

~~\_\_\_\_\_ C. A school district may apply for a grant from the public school facility opportunity fund if the council determines that:~~

~~\_\_\_\_\_ (1) the project is included in the school district's five-year facilities plan and the school district meets all qualifications to apply for a grant pursuant to Section 22-24-5 NMSA 1978 and meets the requirements of Subparagraphs (b), (c), (d) and (g) of Paragraph (9) of Subsection B of that section;~~

~~\_\_\_\_\_ (2) the value calculated for the school district pursuant to Subparagraph (k), (m), (n) or (o) of Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978 is equal to or greater than seven-tenths;~~

~~\_\_\_\_\_ (3) averaged over the previous four property tax years, the school district had a residential property tax rate of at least nine dollars (\$9.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds;~~

~~\_\_\_\_\_ (4) at least seventy percent of the students in the school district are eligible for free or reduced-fee lunch; and~~

~~\_\_\_\_\_ (5) for the next four years, the school district will not have sufficient local resources to expend on school district facilities for the purpose of exceeding the statewide adequacy standards.~~

~~\_\_\_\_\_ D. Applications for grant assistance from the public school facility opportunity fund shall be made by school districts to the council in accordance with the requirements of the council. The council shall, pursuant to criteria adopted by rule, evaluate applications and prioritize those applications most in need of a grant from the fund and, to the extent that money in the fund is available, may award grants for those prioritized applications. The evaluation criteria for school district applications shall be primarily based upon the school district's detailed description of how the proposed facilities or improvements play an essential role in the district's programmatic priorities and how they contribute to meeting goals and objectives in the school district or the school educational plan for student success.~~

~~\_\_\_\_\_ E. All provisions of the Public School Capital Outlay Act relating to the expenditure of grants awarded from the public school capital outlay fund, including those relating to reporting, oversight, project access and accountability, apply to the use and expenditure of grants made pursuant to this section. In addition, in awarding grants pursuant to this section, the council may require conditions and procedures necessary to ensure that the money is expended in the most prudent manner." ]~~

## **Chapter 366 Section 9 Laws 2007**

~~[Section 9. Section 6-5-10 NMSA 1978 (being Laws 1994, Chapter 11, Section 1, as amended) is amended to read:~~

~~-----"6-5-10. STATE AGENCY REVERSIONS--DIRECTOR POWERS--~~

~~COMPLIANCE WITH FEDERAL RULES.--~~

~~-----A. Except as provided in Subsections B and C of this section, all unreserved undesignated fund balances in reverting funds and accounts as reflected in the central financial reporting and accounting system as of June 30 shall revert by September 30 to the general fund. The division may adjust the reversion within forty-five days of release of the audit report for that fiscal year.~~

~~-----B. The director of the division may modify a reversion required pursuant to Subsection A of this section if the reversion would violate federal law or rules pertaining to supplanting of state funds with federal funds or other applicable federal provisions.~~

~~-----C. Ten percent of all unreserved undesignated balances in reverting funds and accounts as of the end of each fiscal year from fiscal year 2009 through fiscal year 2013 shall not revert to the general fund but shall be transferred to the public school facility opportunity fund to be used for grants to school districts pursuant to Section 22-24-12 NMSA 1978."]~~

## **Chapter 366 Section 10 Laws 2007**

~~[Section 10. PUBLIC SCHOOL APPROPRIATIONS FOR NONOPERATING PURPOSES--SET ASIDE FOR PUBLIC SCHOOL FACILITY OPPORTUNITY FUND.--~~

~~Except for appropriations to or from the public school capital outlay fund, three percent of each appropriation made by the legislature on or after~~

~~July 1, 2007 for nonoperating purposes, either directly to a school district or a public school or to another governmental entity for the purpose of passing the money through directly to a school district or a public school, shall be set aside and transferred to the public school facility opportunity fund, provided that the amount set aside and transferred pursuant to this section shall not be included in a reduction in the amount of a state grant calculated pursuant to Paragraph (6) of Subsection B of Section 22-24-5 NMSA 1978. The amount shall be set aside and transferred by the secretary of finance and administration:~~

~~-----A. if the appropriation is from severance tax bond proceeds, at the time the severance tax bonds are issued by the state board of finance; or~~

~~-----B. if the appropriation is from the general fund, at such time during the first fiscal year that the appropriation may be expended as deemed appropriate by the secretary.]~~

## Chapter 366 Section 11 Laws 2007

Section 11. Section 22-24-7 NMSA 1978 (being Laws 2001, Chapter 338, Section 12, as amended) is amended to read:

"22-24-7. PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE--  
CREATION--STAFF.--

A. The "public school capital outlay oversight task force" is created. The task force consists of twenty-six members as follows:

- (1) the secretary of finance and administration or the secretary's designee;
- (2) the secretary of public education or the secretary's designee;
- (3) the state investment officer or the state investment officer's designee;
- (4) the speaker of the house of representatives or the speaker's designee;
- (5) the president pro tempore of the senate or the president pro tempore's designee;
- (6) the chairs of the house appropriations and finance committee, the senate finance committee, the senate education committee and the house education committee or their designees;
- (7) two minority party members of the house of representatives, appointed by the New Mexico legislative council;
- (8) two minority party members of the senate, appointed by the New Mexico legislative council;
- (9) a member of the interim legislative committee charged with the oversight of Indian affairs, appointed by the New Mexico legislative council, provided that the member shall rotate annually between a senate member and a member of the house of representatives;
- (10) a member of the house of representatives and a member of the senate who represent districts with school districts receiving federal funds commonly known as "PL 874" funds or "impact aid", appointed by the New Mexico legislative council;
- (11) two public members who have expertise in education and finance appointed by the speaker of the house of representatives;

(12) two public members who have expertise in education and finance appointed by the president pro tempore of the senate;

(13) three public members, two of whom are residents of school districts that receive grants from the federal government as assistance to areas affected by federal activity authorized in accordance with Title 20 of the United States Code, appointed by the governor; and

(14) three superintendents of school districts or their designees, two of whom are from school districts that receive grants from the federal government as assistance to areas affected by federal activity authorized in accordance with Title 20 of the United States Code, appointed by the New Mexico legislative council in consultation with the governor.

B. The chair of the public school capital outlay oversight task force shall be elected by the task force. The task force shall meet at the call of the chair, but no more than four times per calendar year.

C. Non-ex-officio members of the task force shall serve at the pleasure of their appointing authorities.

D. The public members of the public school capital outlay oversight task force shall receive per diem and mileage pursuant to the Per Diem and Mileage Act.

E. The legislative council service, with assistance from the public school facilities authority, the department of finance and administration, the public education department, the legislative education study committee and the legislative finance committee, shall provide staff for the public school capital outlay oversight task force."

## **Chapter 366 Section 12 Laws 2007**

Section 12. Section 22-25-1 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 1) is amended to read:

"22-25-1. SHORT TITLE.-- Chapter 22, Article 25 NMSA 1978 may be cited as the "Public School Capital Improvements Act"."

## **Chapter 366 Section 13 Laws 2007**

Section 13. Section 22-25-2 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 2, as amended) is amended to read:

"22-25-2. DEFINITIONS.--As used in the Public School Capital Improvements Act:

A. "program unit" means the product of the program element multiplied by the applicable cost differential factor, as defined in Section 22-8-2 NMSA 1978; and

B. "capital improvements" means expenditures, including payments made with respect to lease-purchase arrangements as defined in the Education Technology Equipment Act but excluding any other debt service expenses, for:

(1) erecting, remodeling, making additions to, providing equipment for or furnishing public school buildings;

(2) payments made pursuant to a financing agreement entered into by a school district or a charter school for the leasing of a building or other real property with an option to purchase for a price that is reduced according to payments made;

(3) purchasing or improving public school grounds;

(4) maintenance of public school buildings or public school grounds, including payments under contracts for maintenance support services and expenditures for technical training and certification for maintenance and facilities management personnel, but excluding salary expenses of school district employees;

(5) purchasing activity vehicles for transporting students to extracurricular school activities; or

(6) purchasing computer software and hardware for student use in public school classrooms."

## **Chapter 366 Section 14 Laws 2007**

Section 14. Section 22-25-9 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 9, as amended) is amended to read:

"22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING TAX UNDER CERTAIN CIRCUMSTANCES.--

A. Except as provided in Subsection C or G of this section, the secretary shall distribute to any school district that has imposed a tax under the Public School Capital Improvements Act an amount from the public school capital improvements fund that is equal to the amount by which the revenue estimated to be received from the imposed tax, at the rate certified by the department of finance and administration in accordance with Section 22-25-7 NMSA 1978, assuming a one hundred percent collection rate, is less than an amount calculated by multiplying the school district's first forty days' total program units by the amount specified in Subsection B of this section and further multiplying the product obtained by the tax rate approved by the qualified electors in the most recent election on the question of imposing a tax under the Public School Capital Improvements Act. The distribution shall be made each year that the tax is imposed in

accordance with Section 22-25-7 NMSA 1978; provided that no state distribution from the public school capital improvements fund may be used for capital improvements to any administration building of a school district. In the event that sufficient funds are not available in the public school capital improvements fund to make the state distribution provided for in this section, the dollar per program unit figure shall be reduced as necessary.

B. In calculating the state distribution pursuant to Subsection A of this section, the following amounts shall be used:

(1) the amount calculated pursuant to Subsection D of this subsection per program unit; and

(2) an additional amount certified to the secretary by the public school capital outlay council. No later than June 1 of each year, the council shall determine the amount needed in the next fiscal year for public school capital outlay projects pursuant to the Public School Capital Outlay Act and the amount of revenue, from all sources, available for the projects. If, in the sole discretion of the council, the amount available exceeds the amount needed, the council may certify an additional amount pursuant to this paragraph; provided that the sum of the amount calculated pursuant to this paragraph plus the amount in Paragraph (1) of this subsection shall not result in a total statewide distribution that, in the opinion of the council, exceeds one-half of the total revenue estimated to be received from taxes imposed pursuant to the Public School Capital Improvements Act.

C. For any fiscal year notwithstanding the amount calculated to be distributed pursuant to Subsections A and B of this section, except as provided in Subsection G of this section, a school district, the voters of which have approved a tax pursuant to Section 22-25-

3 NMSA 1978, shall not receive a distribution less than the amount calculated pursuant to Subsection E of this section, multiplied by the school district's first forty days' total program units and further multiplying the product obtained by the approved tax rate.

D. For purposes of calculating the distribution pursuant to Subsection B of this section, the amount used in Paragraph (1) of that subsection shall equal seventy dollars (\$70.00) in fiscal year 2008 and in each subsequent fiscal year shall equal the amount for the previous fiscal year adjusted by the percentage increase between the next preceding calendar year and the preceding calendar year of the consumer price index for the United States, all items, as published by the United States department of labor.

E. For purposes of calculating the minimum distribution pursuant to Subsection C of this section, the amount used in that subsection shall equal five dollars (\$5.00) through fiscal year 2005 and in each subsequent fiscal year shall equal the amount for the previous fiscal year adjusted by the percentage increase between the next

preceding calendar year and the preceding calendar year of the consumer price index for the United States, all items, as published by the United States department of labor.

F. In expending distributions made pursuant to this section, school districts shall give priority to maintenance projects, including payments under contracts for maintenance support services. In addition, distributions made pursuant to this section may be expended by school districts for the school district portion of:

(1) the total project cost for roof repair or replacement required by Section 22-24-4.3 NMSA 1978; or

(2) payments made under a financing agreement entered into by a school district or a charter school for the leasing of a building or other real property with an option to purchase for a price that is reduced according to the payments made, if the school district has received a grant for the state share of the payments pursuant to Subsection D of Section 22-24-5 NMSA 1978.

G. If a serious deficiency in a roof of a public school facility has been corrected pursuant to Section 22-24-4.4 NMSA 1978 and the school district has refused to pay its share of the cost as determined by that section, until the public school capital outlay fund is reimbursed in full for the share attributed to the district, the distribution calculated pursuant to this section shall not be made to the school district but shall be made to the public school capital outlay fund.

H. In making distributions pursuant to this section, the secretary shall include such reporting requirements and conditions as are required by rule of the public school capital outlay council. The council shall adopt such requirements and conditions as are necessary to ensure that the distributions are expended in the most prudent manner possible and are consistent with the original purpose as specified in the authorizing resolution. Copies of reports or other information received by the secretary in response to the requirements and conditions shall be forwarded to the council."

## **Chapter 366 Section 15 Laws 2007**

Section 15. Section 7-38-38.1 NMSA 1978 (being Laws 1986, Chapter 20, Section 116, as amended) is amended to read:

"7-38-38.1. RECIPIENTS OF REVENUE PRODUCED THROUGH AD VALOREM LEVIES REQUIRED TO PAY COUNTIES ADMINISTRATIVE CHARGE TO OFFSET COLLECTION COSTS.--

A. As used in this section:

(1) "revenue" means money for which a county treasurer has the legal responsibility for collection and which is owed to a revenue recipient as a result of an imposition authorized by law of a rate expressed in mills per dollar or dollars per

thousands of dollars of net taxable value of property, assessed value of property or a similar term, including but not limited to money resulting from the authorization of rates and impositions under Subsection B and Paragraphs (1) and (2) of Subsection C of Section 7-37-7 NMSA 1978, special levies for special purposes and benefit assessments, but the term does not include any money resulting from the imposition of taxes imposed under the provisions of the Oil and Gas Ad Valorem Production Tax Act, the Oil and Gas Production Equipment Ad Valorem Tax Act or the Copper Production Ad Valorem Tax Act or money resulting from impositions under Paragraph (3) of Subsection C of Section 7-37-7 NMSA 1978; and

(2) "revenue recipient" means the state and any of its political subdivisions, including charter schools, but excluding institutions of higher education located in class A counties and class B counties having more than three hundred million dollars (\$300,000,000) valuation, that are authorized by law to receive revenue.

B. Prior to the distribution to a revenue recipient of revenue received by a county treasurer, the treasurer shall deduct as an administrative charge an amount equal to one percent of the revenue received.

C. The "county property valuation fund" is created. All administrative charges deducted by the county treasurer shall be distributed to the county property valuation fund.

D. Expenditures from the county property valuation fund shall be made pursuant to a property valuation program presented by the county assessor and approved by the majority of the county commissioners."

## **Chapter 366 Section 16 Laws 2007**

Section 16. Section 22-8B-4 NMSA 1978 (being Laws 1999, Chapter 281, Section 4, as amended) is amended to read:

"22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--  
OPERATION.--

A. A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry or need for special education services.

B. A charter school shall be governed by a governing body in the manner set forth in the charter; provided that a governing body shall have at least five members; and provided further that no member of a governing body for a charter school that is initially approved on or after July 1, 2005 or whose charter is renewed on or after July 1, 2005 shall serve on the governing body of another charter school.

C. A charter school shall be responsible for:

(1) its own operation, including preparation of a budget, subject to audits pursuant to the Audit Act; and

(2) contracting for services and personnel matters.

D. A charter school may contract with a school district, a university or college, the state, another political subdivision of the state, the federal government or one of its agencies, a tribal government or any other third party for the use of a facility, its operation and maintenance and the provision of any service or activity that the charter school is required to perform in order to carry out the educational program described in its charter. Facilities used by a charter school shall meet the standards required pursuant to Section 22-8B-4.2 NMSA 1978.

E. A conversion school chartered before July 1, 2007 may choose to continue using the school district facilities and equipment it had been using prior to conversion, subject to the provisions of Subsection F of this section.

F. The school district in which a charter school is geographically located shall provide a charter school with available facilities for the school's operations unless the facilities are currently used for other educational purposes. An agreement for the use of school district facilities by a charter school may provide for reasonable lease payments; provided that the payments do not exceed the sum of the lease reimbursement rate provided in Subparagraph (b) of Paragraph (1) of Subsection I of Section 22-24-4 NMSA 1978 plus any reimbursement for actual direct costs incurred by the school district in providing the facilities; and, provided further, that any lease payments received by a school district may be retained by the school district and shall not be considered to be cash balances in any calculation pursuant to Section 22-8-41 NMSA 1978. The available facilities provided by a school district to a charter school shall meet all occupancy standards as specified by the public school capital outlay council. As used in this subsection, "other educational purposes" includes health clinics, daycare centers, teacher training centers, school district administration functions and other ancillary services related to a school district's functions and operations.

G. A locally chartered charter school may pay the costs of operation and maintenance of its facilities or may contract with the school district to provide facility operation and maintenance services.

H. Locally chartered charter school facilities are eligible for state and local capital outlay funds and shall be included in the school district's five-year facilities plan.

I. A locally chartered charter school shall negotiate with a school district to provide transportation to students eligible for transportation under the provisions of the Public School Code. The school district, in conjunction with the charter school, may establish a limit for student transportation to and from the charter school site not to extend beyond the school district boundary.

J. A charter school shall be a nonsectarian, nonreligious and non-home-based public school.

K. Except as otherwise provided in the Public School Code, a charter school shall not charge tuition or have admission requirements.

L. With the approval of the chartering authority, a single charter school may maintain separate facilities at two or more locations within the same school district; but, for purposes of calculating program units pursuant to the Public School Finance Act, the separate facilities shall be treated together as one school.

M. A charter school shall be subject to the provisions of Section 22-2-8 NMSA 1978 and the Assessment and Accountability Act.

N. Within constitutional and statutory limits, a charter school may acquire and dispose of property; provided that, upon termination of the charter, all assets of the locally chartered charter school shall revert to the local school board and all assets of the state-chartered charter school shall revert to the state, except that, if all or any portion of a state-

chartered charter school facility is financed with the proceeds of general obligation bonds issued by a local school board, the facility shall revert to the local school board.

O. The governing body of a charter school may accept or reject any charitable gift, grant, devise or bequest; provided that no such gift, grant, devise or bequest shall be accepted if subject to any condition contrary to law or to the terms of the charter. The particular gift, grant, devise or bequest shall be considered an asset of the charter school to which it is given.

P. The governing body may contract and sue and be sued. A local school board shall not be liable for any acts or omissions of the charter school.

Q. A charter school shall comply with all state and federal health and safety requirements applicable to public schools, including those health and safety codes relating to educational building occupancy.

R. A charter school is a public school that may contract with a school district or other party for provision of financial management, food services, transportation, facilities, education-related services or other services. The governing body shall not contract with a for-profit entity for the management of the charter school.

S. To enable state-chartered charter schools to submit required data to the department, an accountability data system shall be maintained by the department.

T. A charter school shall comply with all applicable state and federal laws and rules related to providing special education services. Charter school students with

disabilities and their parents retain all rights under the federal Individuals with Disabilities Education Act and its implementing state and federal rules. Each charter school is responsible for identifying, evaluating and offering a free appropriate public education to all eligible children who are accepted for enrollment in that charter school. The state-chartered charter school, as a local educational agency, shall assume responsibility for determining students' needs for special education and related services. The division may promulgate rules to implement the requirements of this subsection."

## **Chapter 366 Section 17 Laws 2007**

Section 17. Section 22-8B-4.2 NMSA 1978 (being Laws 2005, Chapter 221, Section 3 and Laws 2005, Chapter 274, Section 2) is amended to read:

### "22-8B-4.2. CHARTER SCHOOL FACILITIES--STANDARDS.--

A. The facilities of a charter school that is approved on or after July 1, 2005 and before July 1, 2010 shall meet educational occupancy standards required by applicable New Mexico construction codes.

B. The facilities of a charter school that is in existence, or has been approved, prior to July 1, 2005 shall be evaluated, prioritized and eligible for grants pursuant to the Public School Capital Outlay Act in the same manner as all other public schools in the state; provided that for charter school facilities in leased facilities, grants may be used as additional lease payments for leasehold improvements.

C. On or after July 1, 2010, an application for a charter shall not be approved and an existing charter shall not be renewed unless the charter school:

(1) is housed in a public building that is:

(a) owned by the charter school, the school district, the state, an institution of the state, another political subdivision of the state, the federal government or one of its agencies or a tribal government; and

(b) subject to evaluation and prioritization and eligible for grants pursuant to the Public School Capital Outlay Act in the same manner as all other public schools in the state;

(2) is housed in a building that meets the statewide adequacy standards developed pursuant to the Public School Capital Outlay Act and that is being leased by the charter school pursuant to a financing agreement that contains an option to purchase for a price that is reduced according to the lease payments made; or

(3) if it is not housed in a building described in Paragraph (1) or (2) of this subsection, demonstrates that:

(a) the facility in which the charter school is housed meets the statewide adequacy standards developed pursuant to the Public School Capital Outlay Act and the owner of the facility is contractually obligated to maintain those standards at no additional cost to the charter school or the state; and

(b) either: 1) public buildings are not available or adequate for the educational program of the charter school; or 2) the owner of the facility is a nonprofit entity specifically organized for the purpose of providing the facility for the charter school.

D. The public school capital outlay council:

(1) shall determine whether facilities of a charter school meet the educational occupancy standards pursuant to the requirements of Subsection A of this section;

(2) shall determine whether facilities of a charter school meet the requirements of Subsections B and C of this section; and

(3) upon a determination that specific requirements are not appropriate or reasonable for a charter school, may grant a variance from those requirements for that charter school."

## **Chapter 366 Section 18 Laws 2007**

Section 18. Section 22-26-1 NMSA 1978 (being Laws 1983, Chapter 163, Section 1) is amended to read:

"22-26-1. SHORT TITLE.-- Chapter 22, Article 26 NMSA 1978 may be cited as the "Public School Buildings Act"."

## **Chapter 366 Section 19 Laws 2007**

Section 19. Section 22-26-2 NMSA 1978 (being Laws 1983, Chapter 163, Section 2, as amended) is amended to read:

"22-26-2. DEFINITION.--As used in the Public School Buildings Act, "capital improvements" means expenditures, including payments made with respect to lease-purchase arrangements as defined in the Education Technology Equipment Act but excluding any other debt service expenses, for:

A. erecting, remodeling, making additions to, providing equipment for or furnishing public school buildings;

B. payments made pursuant to a financing agreement entered into by a school district or a charter school for the leasing of a building or other real property with an option to purchase for a price that is reduced according to payments made;

C. purchasing or improving public school grounds; or

D. administering the projects undertaken pursuant to Subsections A and C of this section, including expenditures for facility maintenance software, project management software, project oversight and district personnel specifically related to administration of projects funded by the Public School Buildings Act; provided that expenditures pursuant to this subsection shall not exceed five percent of the total project costs."

## **Chapter 366 Section 20 Laws 2007**

Section 20. Section 22-26-3 NMSA 1978 (being Laws 1983, Chapter 163, Section 3, as amended) is amended to read:

"22-26-3. AUTHORIZATION FOR LOCAL SCHOOL BOARD TO SUBMIT QUESTION OF CAPITAL IMPROVEMENTS TAX IMPOSITION.--

A. A local school board may adopt a resolution to submit to the qualified electors of the school district the question of whether a property tax at a rate not to exceed the rate specified in the resolution should be imposed upon the net taxable value of property allocated to the school district under the Property Tax Code for the purpose of capital improvements to public schools in the school district. The resolution shall:

(1) identify the capital improvements for which the revenue proposed to be produced will be used;

(2) specify the rate of the proposed tax, which shall not exceed ten dollars (\$10.00) on each one thousand dollars (\$1,000) of net taxable value of property allocated to the school district under the Property Tax Code;

(3) specify the date an election will be held to submit the question of imposition of the tax to the qualified electors of the district; and

(4) limit the imposition of the proposed tax to no more than six property tax years.

B. After July 1, 2007, a resolution submitted to the qualified electors pursuant to Subsection A of this section shall include capital improvements funding for a locally chartered or state-chartered charter school located within the school district if:

(1) the charter school timely provides the necessary information to the school district for inclusion on the resolution that identifies the capital improvements of the charter school for which the revenue proposed to be produced will be used; and

(2) the capital improvements are included in the five-year facilities plan:

(a) of the school district, if the charter school is a locally chartered charter school; or

(b) of the charter school, if the charter school is a state-chartered charter school."

## **Chapter 366 Section 21 Laws 2007**

Section 21. Section 22-26-5 NMSA 1978 (being Laws 1983, Chapter 163, Section 5, as amended) is amended to read:

"22-26-5. CONDUCT OF ELECTION--NOTICE--BALLOT.--

A. An election on the question of imposing a tax under the Public School Buildings Act may be held in conjunction with a regular school district election or may be conducted as or held in conjunction with a special school district election, but the election shall be held prior to July 1 of the property tax year in which the tax is proposed to be imposed. Conduct of the election shall be as prescribed in the School Election Law for regular and special school district elections.

B. The resolution required to be published as notice of the election under Section 1-

22-4 or 1-22-5 NMSA 1978 shall include as the question to be submitted to the voters whether a property tax at a rate not to exceed the rate specified in the authorizing resolution should be imposed for the specified number of property tax years not exceeding six years upon the net taxable value of all property allocated to the school district for capital improvements.

C. The ballot shall include the information specified in Subsection B of this section and shall present the voter the choice of voting "for the public school buildings tax" or "against the public school buildings tax".

## **Chapter 366 Section 22 Laws 2007**

Section 22. Section 22-26-8 NMSA 1978 (being Laws 1983, Chapter 163, Section 8, as amended) is amended to read:

"22-26-8. TAX TO BE IMPOSED FOR A MAXIMUM OF SIX YEARS.--A tax imposed in a school district as a result of an election under the Public School Buildings Act shall be imposed for one, two, three, four, five or six years commencing with the property tax year in which the election was held. The local school board may direct that such levy be decreased or not made for any year if, in its judgment, the total levy is not necessary for such year and shall direct that the levy be decreased by the amount

required if a decrease is required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978."

### **Chapter 366 Section 23 Laws 2007**

Section 23. A new section of the Public School Buildings Act is enacted to read:

"CHARTER SCHOOLS--RECEIPT OF LOCAL PROPERTY TAX REVENUE.--If, in an election held after July 1, 2007, the qualified electors of a school district have voted in favor of the imposition of a property tax as provided in Section

22-26-3 NMSA 1978, the amount of tax revenue to be distributed to each charter school that was included in the resolution shall be determined each year and shall be in the same proportion as the average full-time-equivalent enrollment of the charter school on the fortieth day of the prior school year is to the total such enrollment in the district; provided that, in the case of an approved charter school that had not commenced classroom instruction in the prior school year, the estimated full-time-equivalent enrollment in the first year of instruction, as shown in the approved charter school application, shall be used, subject to adjustment after the fortieth day. Each year, the department shall certify to the county treasurer of the county in which the eligible charter schools in the school district are located the percentage of the revenue to be distributed to each charter school. The county treasurer shall distribute the charter school's share of the property tax revenue directly to the charter school."

### **Chapter 366 Section 24 Laws 2007**

Section 24. TEMPORARY PROVISION--PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE.--During the 2007 interim, the public school capital outlay oversight task force shall continue to work toward an equitable and fair system that addresses the inequities between public school facilities among various school districts in this state. Toward that end, the task force shall assess the current statewide adequacy standards, the need for changing those standards and the effect upon school districts of any proposed change in the standards.

### **Chapter 366 Section 25 Laws 2007**

Section 25. TEMPORARY PROVISION--RECOMPILATION INSTRUCTIONS.--

The compiler shall recompile Section 22-24-11 NMSA 1978 (being Laws 2006, Chapter 95, Section 3) as part of the Public School Finance Act.

### **Chapter 366 Section 26 Laws 2007**

~~[Section 26. DELAYED REPEAL--REVERSION OF FUND BALANCE.--~~

~~\_\_\_\_\_ A. On July 1, 2013, Sections 22-24-5.8 and 22-24-12 NMSA 1978, as enacted by Sections 7 and 8 of this act, and Section 10 of this act are repealed.]~~

B. Upon the repeal of Section 22-24-12 NMSA 1978, the proportion of the unencumbered balance of the public school facility opportunity fund that is attributable to proceeds of severance tax bonds shall revert to the severance tax bonding fund and the remaining unencumbered balance shall revert to the general fund.

## **Chapter 366 Section 27 Laws 2007**

Section 27. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Finance Committee Substitute

for Senate Bill 395, as amended

Approved April 6, 2007

## **LAWS 2007, CHAPTER 367**

AN ACT

RELATING TO INSURANCE; AMENDING THE NEW MEXICO INSURANCE CODE TO MODERNIZE THE REGULATION OF PROPERTY AND CASUALTY RATES AND FORMS; INCREASING PENALTIES.

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

### **Chapter 367 Section 1 Laws 2007**

Section 1. Section 59A-17-1 NMSA 1978 (being Laws 1984, Chapter 127, Section 299) is amended to read:

"59A-17-1. SHORT TITLE.--Chapter 59A, Article 17 NMSA 1978 may be cited as the "Insurance Rate Regulation Law"."

### **Chapter 367 Section 2 Laws 2007**

Section 2. Section 59A-17-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 297) is amended to read:

"59A-17-2. SCOPE OF ARTICLE--EXEMPTIONS.--

A. The Insurance Rate Regulation Law applies to all kinds and lines of direct insurance written on risks or operations in this state by any authorized insurer, except:

(1) wet marine and transportation insurance, as defined in Section 59A-7-5 NMSA 1978;

(2) life insurance;

(3) variable and fixed annuities; and

(4) health insurance.

B. For purposes of the Insurance Rate Regulation Law, "workers' compensation" insurance includes employer's liability insurance.

C. The superintendent may by order exempt any person or class of persons or any market segment from any or all of the provisions of the Insurance Rate Regulation Law to the extent that the superintendent finds the provision or provisions unnecessary to achieve the purposes of that law."

## **Chapter 367 Section 3 Laws 2007**

Section 3. Section 59A-17-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 300) is amended to read:

"59A-17-4. DEFINITIONS.--As used in the Insurance Rate Regulation Law:

A. "advisory organization" means an entity, including its affiliates or subsidiaries, that either has two or more member insurers or is controlled either directly or indirectly by two or more insurers, and that assists insurers in the promulgation of policy forms; in ratemaking activities, such as the collection, compilation and furnishing of loss or expense statistics; or in the recommendation, making or filing of rates, prospective loss costs, supplementary rate information, policy forms or endorsements. Two or more insurers having a common ownership or operating in New Mexico under common management or control constitute a single insurer for purposes of this definition;

B. "commercial insurance" means any line or kind of property or casualty insurance not for personal, family or household needs;

C. "market" means any line or kind of insurance or any subdivision thereof or any class of risks or combination of classes;

D. "residual market mechanism" means an arrangement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance that may be afforded applicants who are unable to obtain insurance through ordinary methods;

E. "reverse competition" means a marketplace situation where the placement of a line, kind or class of insurance with insurers is determined primarily or exclusively by parties other than the policyholders;

F. "supplementary rate information" includes any manual or plan of rates, classification, rating schedule, minimum premium, policy fee, rating rule, underwriting rule and any other information needed to determine the applicable rate in effect or to be in effect; and

G. "supporting information" means:

(1) the experience and judgment of the filer and the experience or data of other insurers or advisory organizations relied upon by the filer;

(2) the interpretation of any other data relied upon by the filer;

(3) descriptions of methods used in making the rates; and

(4) any other information required by the superintendent to be filed."

## **Chapter 367 Section 4 Laws 2007**

Section 4. A new section of the Insurance Rate Regulation Law is enacted to read:

"COMPETITIVE MARKET.--A competitive market is presumed to exist unless the superintendent, after notice and hearing, determines that a reasonable degree of competition does not exist within a market and issues a ruling to that effect. The ruling shall expire three years after issue unless rescinded earlier by the superintendent or unless the superintendent renews the ruling after a hearing and a finding as to the continued lack of a reasonable degree of competition. Any ruling that finds that competition does not exist shall identify the factors that cause the market not to be competitive and may also include a plan for enhancing competition. The superintendent shall monitor the degree and continued existence of competition in New Mexico on an ongoing basis. An interested party may petition the superintendent to initiate a hearing to examine whether a particular market is competitive or whether a particular market is no longer noncompetitive."

## **Chapter 367 Section 5 Laws 2007**

Section 5. A new section of the Insurance Rate Regulation Law is enacted to read:

"REVERSE COMPETITIVE MARKET.--A reverse competitive market for a line, kind or class of insurance is presumed to exist wherever the placement of a line, kind or class of insurance with insurers is determined primarily or exclusively by parties other

than the policyholders. The superintendent may, by notice and hearing, establish rules for determining the specific lines, kinds or classes of insurance that, for the purposes of the Insurance Rate Regulation Law, are reversely competitive."

## **Chapter 367 Section 6 Laws 2007**

Section 6. A new section of the Insurance Rate Regulation Law is enacted to read:

"CONSUMER INFORMATION.--

A. The superintendent shall use, develop or cause to be developed a consumer information system that will provide and disseminate price and other relevant information on a readily available basis to purchasers of homeowners, private passenger non-fleet automobile or property insurance for personal, family or household needs as well as for any other types of personal or commercial insurance designated by the superintendent. To the extent deemed necessary and appropriate by the superintendent, insurers, advisory organizations and other persons or organizations involved in conducting the business of insurance in New Mexico, to which this section applies, shall cooperate in the development and utilization of a consumer information system.

B. An insurer writing homeowners insurance or private passenger non-fleet automobile insurance in New Mexico shall, upon renewal or upon the transfer of a policy to another insurer under the same ownership or management as the transferring insurer, provide its policyholders with written notification of their right to obtain from the insurer a detailed written explanation of the reasons why their policy premium has changed or is about to change."

## **Chapter 367 Section 7 Laws 2007**

Section 7. A new section of the Insurance Rate Regulation Law is enacted to read:

"UNDERWRITING GUIDELINES.--

A. The superintendent may direct an insurer writing homeowners insurance, private passenger non-fleet automobile insurance or other lines, kinds or classes of noncommercial insurance in New Mexico to file with the superintendent underwriting guidelines that determine the acceptance of applicants and tiering guidelines that determine the placement of applicants and insureds into rating tiers, regardless of whether such tiers exist within the insurer or within a group of insurers under common ownership or management.

B. The superintendent, after notice and hearing, may order an insurer to cease using underwriting or tiering guidelines that are unfairly discriminatory or that fail to

place applicants and insureds into tiers in a clear, objective, risk-based and mutually exclusive manner.

C. Filings made pursuant to this section shall be considered confidential trade secrets under the Uniform Trade Secrets Act."

## **Chapter 367 Section 8 Laws 2007**

Section 8. Section 59A-17-6 NMSA 1978 (being Laws 1984, Chapter 127, Section 302) is amended to read:

"59A-17-6. RATE STANDARDS.--

A. Rates shall not be excessive, inadequate or unfairly discriminatory, nor shall an insurer charge any rate that, if continued, will have or tend to have the effect of destroying competition or creating a monopoly.

B. In a competitive market, rates are presumed not to be excessive.

C. In a noncompetitive market, rates are excessive if they are likely to produce a profit that is unreasonably high in relation to the riskiness of the line, kind or class of business, or if expenses are unreasonably high in relation to the services rendered.

D. Rates are inadequate if they are clearly insufficient, together with the investment income attributable to them, to sustain projected losses and expenses in the line, kind or class of business to which they apply.

E. There is unfair discrimination if one rate is unfairly discriminatory in relation to another in the same line, kind or class if it clearly fails to reflect equitably the differences in expected losses and expenses. Rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, so long as the rates reflect the differences with reasonable accuracy. Rates are not unfairly discriminatory if they are averaged broadly among persons insured under a group, franchise or blanket policy or a mass marketing plan."

## **Chapter 367 Section 9 Laws 2007**

Section 9. Section 59A-17-7 NMSA 1978 (being Laws 1984, Chapter 127, Section 303) is amended to read:

"59A-17-7. RATING METHODS.--In determining whether rates comply with the rate standards, the following criteria shall be applied:

A. due consideration shall be given to past and prospective loss and expense experience within and without this state, to catastrophic hazards and contingencies, to

trends within and without this state, to loadings for leveling premium rates over time or for dividends or savings to be allowed or returned by insurers to their policyholders, members or subscribers and to all other relevant factors, including the judgment of technical personnel;

B. risks may be classified in any reasonable way for the establishment of rates and minimum premiums, except that classifications may not be based on race, color, creed or national origin;

C. the expense provisions included in the rates to be used by an insurer may reflect the operating methods of the insurer and, so far as it is credible, its own expense experience; and

D. the rates may contain an allowance permitting a profit that is not unreasonable in relation to the riskiness of the line, kind or class of business. Profit shall include investment income attributable to such rates."

## **Chapter 367 Section 10 Laws 2007**

Section 10. Section 59A-17-7.1 NMSA 1978 (being Laws 1987, Chapter 80, Section 1) is amended to read:

"59A-17-7.1. MOTOR VEHICLE LIABILITY--NOT-AT-FAULT ACCIDENTS.--

A. The rates of a motor vehicle liability insurer shall not provide for an increase in the premium if based upon an accident in which the insured is not at fault in any manner as determined by either the accident report or the insurer. If the insurer determines that its insured is at fault contrary to the specific finding of an accident report that the insured is not at fault, the insurer shall reach its conclusion only after an investigation.

B. A motor vehicle liability insurer shall not cancel, or use as a basis for nonrenewal, an insurance policy if such cancellation or nonrenewal is based upon an accident in which the insured is not at fault in any manner as determined by either the accident report or the insurer. If the insurer determines that its insured is at fault contrary to the specific finding of an accident report that the insured is not at fault, the insurer shall reach its conclusion only after an investigation.

C. As used in this section, "motor vehicle liability insurer" means an insurer authorized to transact in this state the business of automobile and motor vehicle bodily injury, property damage liability and physical damage insurance.

D. This section shall not apply if other factors exist, exclusive of the accident in which the insured is not at fault, that allow for a premium increase, cancellation or nonrenewal of an insurance policy under the Insurance Code or rules pursuant to the Insurance Code."

## Chapter 367 Section 11 Laws 2007

Section 11. Section 59A-17-8 NMSA 1978 (being Laws 1984, Chapter 127, Section 304, as amended) is amended to read:

"59A-17-8. MAKING OF RATES--WORKERS' COMPENSATION--RATE CALCULATIONS--RATE CLASSIFICATIONS.--

A. A workers' compensation insurer shall adhere to a uniform classification system and uniform experience rating system filed with the superintendent by an advisory organization designated by the superintendent.

B. A workers' compensation insurer shall report its experience in accordance with the statistical plans and other reporting requirements in use by the advisory organization designated by the superintendent.

C. Workers' compensation premium rates shall be equalized and calculated on a basis that does not discriminate against or penalize employers who pay higher wages than other employers to workers in the same job classification. The legislature finds that calculating workers' compensation premium rates strictly on the basis of an employer's wages paid discriminates against and penalizes higher-paying employers. The legislature accordingly directs that the superintendent shall:

(1) investigate alternatives to the current method of computing workers' compensation premiums, including but not limited to:

- (a) split classification;
- (b) payroll cap;
- (c) hours worked; and
- (d) premium credits;

(2) immediately conduct hearings on the issue, including consideration of other alternatives; and

(3) adopt regulations, to become effective no later than April 1, 1991, to equalize the workers' compensation premium rates employers must pay for workers who perform the same job.

Nothing in this subsection shall be construed to prohibit the use of experience rating or scheduled credits.

D. A workers' compensation insurer may develop subclassifications of the uniform classification system upon which rates may be made. Such subclassifications

and their filing shall be subject to all applicable provisions of the Insurance Rate Regulation Law. Data produced from such subclassifications shall be reported in accordance with the statistical plans, uniform classification system and experience rating system in use by the advisory organization designated by the superintendent.

E. Classification assignments may be changed within sixty days of the effective date or renewal date of the policy, provided the employer is given reasonable prior notice of the proposed change in order to object and provided further that the change is based upon an appropriate audit or investigation. The same provisions apply to initial classification assignments for new operations added by the employer so that they may be changed within sixty days of the date the classification assignments are initially established. No subsequent changes shall be made unless the insurer proves, after conducting an audit or investigation, that:

(1) there has been a substantial change in the nature of the work performed; or

(2) the initial assignment was in error due to withheld or inaccurate material information provided by the employer.

F. A workers' compensation insurer may develop rating plans that identify loss experience as a factor to be used. The rating plans and their filing shall be subject to all applicable provisions of the Insurance Rate Regulation Law.

G. The superintendent shall disapprove subclassifications, rating plans or other variations from supplementary rate information filed by a workers' compensation insurer if the insurer fails to demonstrate that the data produced can be reported consistent with the uniform classification system and experience rating system and in such a fashion so as to allow for the application of experience rating filed by the advisory organization designated by the superintendent."

## **Chapter 367 Section 12 Laws 2007**

Section 12. Section 59A-17-9 NMSA 1978 (being Laws 1984, Chapter 127, Section 305, as amended) is amended to read:

"59A-17-9. FILING OF RATES.--

A. In regard to filings in competitive markets:

(1) for purposes of this section, reverse competitive markets and residual markets are not competitive markets;

(2) for filings by insurers:

(a) an insurer shall file with the superintendent rates and supplementary rate information prior to their use in New Mexico;

(b) rates to be used in a competitive market for commercial insurance other than workers' compensation and medical professional liability need not be filed; and

(c) insurers that wish to use workers' compensation subclassifications, rating plans, loss costs or other supplementary rate information that differs from items filed by the advisory organization designated by the superintendent shall file with the superintendent relevant subclassifications, rating plans, rates, loss costs, other supplementary rate information and supporting information in accordance with the requirements and provisions of Subsection B of this section; and

(3) for filings by advisory organizations:

(a) with the exception of workers' compensation filings, an advisory organization shall file with the superintendent rates, supplementary rate information and supporting information prior to their use in New Mexico; and

(b) regarding workers' compensation filings, the advisory organization designated by the superintendent shall file with the superintendent rates, supplementary rate information and supporting information in accordance with the requirements and provisions of Subsection B of this section.

B. In regard to filings in noncompetitive, reverse competitive and residual markets:

(1) an insurer or advisory organization shall file with the superintendent rates, supplementary rate information and supporting information for noncompetitive, reverse competitive and residual markets at least thirty days before the proposed effective date;

(2) the superintendent may give written or electronic notice, within thirty days of receipt of the filing, that the superintendent needs additional time, not to exceed thirty days from the date of such notice, to consider the filing;

(3) upon written or electronic application of the insurer or advisory organization, the superintendent may authorize rates to be effective before the expiration of the waiting period or an extension of the waiting period;

(4) a filing shall be deemed to meet the requirements of this section and to become effective unless disapproved pursuant to Section 59A-17-13 NMSA 1978 by the superintendent before the expiration of the waiting period or an extension of the waiting period;

(5) the operation of the deemer provision shall be suspended during a period of not more than sixty days upon written or electronic notice to the insurer or advisory organization that made the filing that additional information is needed to complete the review of the filing. The suspension of the deemer provision may occur only once for a filing. Failure of the insurer or advisory organization to provide the requested information within sixty days shall be deemed a request to withdraw the filing from further consideration. The superintendent shall either approve or disapprove the filing within thirty days of receipt of the requested additional information. Failure of the superintendent to act within the thirty-

day period shall result in the filing being deemed to meet the requirements of the Insurance Rate Regulation Law. Neither the insurer nor the superintendent may waive the timeliness requirements of the deemer provisions of this section; and

(6) residual market mechanisms or advisory organizations may file residual market rates.

C. In regard to reference filings; an insurer may file its rates either by filing its final rates or by filing a multiplier and, if applicable, an expense constant adjustment to be applied to prospective loss costs that have been filed by an advisory organization on behalf of the insurer as permitted by Section 59A-17-17 NMSA 1978. Such reference filings shall be made prior to their use or by other methods the superintendent may allow by rule. An insurer that chooses to adopt the prospective loss costs or rates that have been filed by an advisory organization on its behalf for a competitive commercial line other than workers' compensation or medical professional liability need not file."

## **Chapter 367 Section 13 Laws 2007**

Section 13. Section 59A-17-11 NMSA 1978 (being Laws 1984, Chapter 127, Section 307, as amended) is amended to read:

"59A-17-11. FILINGS OPEN TO INSPECTION.--A filing and supporting information filed under Sections 59A-17-9 and 59A-17-10 NMSA 1978 shall, as soon as filed, be open to public inspection at a reasonable time. A copy of a filing and supporting information may be obtained by a person on request to the superintendent and payment of a reasonable charge. If the insurer or advisory organization believes that information contained in the filing contains material that it considers to be a trade secret, it shall include that information in a separate section of the filing and include a request for the superintendent to consider whether that information should be kept confidential."

## **Chapter 367 Section 14 Laws 2007**

Section 14. Section 59A-17-12 NMSA 1978 (being Laws 1984, Chapter 127, Section 308) is amended to read:

"59A-17-12. INSURER MUST ADHERE TO RATES--CONSENT TO RATE.--

A. No insurer shall make or issue a contract or policy of insurance except in accordance with filings or rates that are lawfully in effect for the insurer as provided in the Insurance Rate Regulation Law.

B. Upon written application of the insured stating the underlying reasons that is filed with and approved by the superintendent, a rate in excess of or below that otherwise applicable may be used as to a specific risk."

## **Chapter 367 Section 15 Laws 2007**

Section 15. Section 59A-17-13 NMSA 1978 (being Laws 1984, Chapter 127, Section 309, as amended) is amended to read:

"59A-17-13. GROUNDS AND PROCEDURES FOR DISAPPROVAL OF RATES.--

A. The superintendent shall disapprove a rate for use in a competitive market if the superintendent finds that the rate is inadequate or unfairly discriminatory under the rate standards set forth in Section 59A-17-6 NMSA 1978. The superintendent shall disapprove a rate for use in a noncompetitive, reverse competitive or residual market if the superintendent finds that the rate is excessive, inadequate or unfairly discriminatory under the rate standards set forth in Section 59A-17-6 NMSA 1978.

B. The superintendent may at any time disapprove a filing submitted under the "file and use" provisions of Subsection A of Section 59A-17-9 NMSA 1978 after giving notice of hearing pursuant to the provisions of Subsection A of Section 59A-4-16 NMSA 1978 to every insurer and advisory organization that adopted the rate.

C. The superintendent may disapprove a filing submitted under the "prior approval" provisions of Subsection B of Section 59A-17-9 NMSA 1978:

(1) without a hearing prior to the expiration of the waiting period or an extension of the waiting period. An insurer or advisory organization whose rates are disapproved under this subsection may request a hearing before the superintendent by filing a written request within thirty days of the date of the disapproval notice; or

(2) at any time after the expiration of the waiting period or an extension of the waiting period, after giving notice of hearing pursuant to the provisions of Subsection A of Section 59A-4-16 NMSA 1978 to every insurer and advisory organization that adopted the rate.

D. The superintendent's notice or order of disapproval shall specify the respects in which the rate fails to meet the standards set forth in Section 59A-17-6 NMSA 1978. The notice or order shall state an effective date no sooner than thirty business days after the date of the notice or order when the insurer shall discontinue the use of the

rate. The notice or order shall not affect any policy made before the effective date of the notice or order."

## **Chapter 367 Section 16 Laws 2007**

Section 16. A new section of the Insurance Rate Regulation Law is enacted to read:

"LARGE COMMERCIAL POLICYHOLDERS.--

A. The superintendent may, by rule, establish a class of large commercial policyholders, to be known as exempt commercial policyholders, that shall be exempt from the rate and form requirements of Chapter 59A, Articles 17 and 18 NMSA 1978, except for form provisions relating to workers' compensation mandatory coverage provisions.

B. In the promulgation of this rule, the superintendent shall consider the following factors in establishing an exempt commercial policyholder class:

(1) the characteristics of insureds that are likely to study and understand the details of their business risks, insurance coverages and exclusions;

(2) the characteristics of insureds that are likely to avail themselves of regular price comparisons between competing insurers and are likely to study and understand the differences and details of pricing proposals that they receive;

(3) the characteristics of insureds that are likely to require individually written policies, as contrasted to insureds that can customarily have their coverage needs met through a compilation of forms with applicability to other insureds as well;

(4) the characteristics of insureds for which filed rates and rating plans are less likely to provide the lowest premiums otherwise consistent with the provisions of the Insurance Rate Regulation Law;

(5) the favorable or adverse experiences with exemptions from regulatory requirements, especially the experience in New Mexico;

(6) the extent to which commercial insureds primarily located in another jurisdiction are subject to similar exemptions or waivers in that jurisdiction; and

(7) any other relevant factors.

C. The superintendent may, by rule, waive some or all of the diligent search requirements related to placement of risks in the approved surplus lines market for some or all of the exempt commercial policyholders."

## **Chapter 367 Section 17 Laws 2007**

Section 17. Section 59A-17-13.1 NMSA 1978 (being Laws 1993, Chapter 103, Section 1) is amended to read:

"59A-17-13.1. DISCOUNTS ON HOMEOWNERS' POLICIES FOR BURGLARY PROTECTIONS.--Any insurer licensed to write homeowner's insurance, as defined by the superintendent, within the state shall provide a minimum premium discount of ten percent for houses with electronic alarm systems designed to prevent unauthorized entry into the house. The insurer shall also provide a minimum premium discount of five percent for houses with wrought iron bars covering all the doors and windows of the house. These discounts shall apply to comprehensive coverage and shall be part of the insurer's rate filing. Some or all of the premium discounts required by this section may be omitted upon demonstration to the superintendent in an insurer's rate filing that the discounts are duplicative of other discounts provided by the insurer."

## **Chapter 367 Section 18 Laws 2007**

Section 18. Section 59A-17-16 NMSA 1978 (being Laws 1984, Chapter 127, Section 312, as amended) is amended to read:

"59A-17-16. REQUIREMENT FOR SUPPORTING INFORMATION.--

A. By rule, the superintendent may require the filing of supporting data as to any or all kinds or lines of insurance or subdivisions thereof or classes of risks or combinations thereof as the superintendent deems necessary for the proper functioning of the rate monitoring and regulating process. The supporting data shall include:

(1) the experience and judgment of the filer and, to the extent it wishes or the superintendent requires, of other insurers or advisory organizations;

(2) its interpretation of any statistical data relied upon;

(3) descriptions of the actuarial and statistical methods employed in setting the rates; and

(4) any other relevant matters required by the superintendent.

B. Whenever a filing is not accompanied by the information as the superintendent has required under Subsection A of this section, the superintendent may inform the insurer and the filing shall be deemed to be made when the information is furnished."

## **Chapter 367 Section 19 Laws 2007**

Section 19. Section 59A-17-17 NMSA 1978 (being Laws 1984, Chapter 127, Section 313, as amended) is amended to read:

"59A-17-17. USE OF ADVISORY ORGANIZATION FILINGS.--

A. An insurer may itself establish rates and supplementary rate information for a market segment based on the factors set forth in Section 59A-17-7 NMSA 1978 or it may in its rate filing incorporate by reference loss costs and other supplementary rate information prepared by an advisory organization, with modification for its own loss experience as the credibility of that experience allows.

B. Nothing in the Insurance Rate Regulation Law shall be construed as requiring an insurer to become a member of or subscriber to any advisory organization.

C. The superintendent may adopt rules establishing standards and administrative procedures to carry out the provisions of this section."

### **Chapter 367 Section 20 Laws 2007**

Section 20. Section 59A-17-18 NMSA 1978 (being Laws 1984, Chapter 127, Section 314) is amended to read:

"59A-17-18. ADVISORY ORGANIZATIONS--LICENSE REQUIRED--  
OBLIGATION TO PROVIDE SERVICE.--

A. No advisory organization shall provide a service relating to the statistical collection or the rates of an insurance subject to the Insurance Rate Regulation Law, and no insurer shall use the services of the organization for such purposes, unless the organization has obtained a license as required by Section 59A-17-19 NMSA 1978.

B. No advisory organization shall refuse to supply a service for which it is licensed in this state to an authorized insurer offering to pay the fair and usual compensation for the services."

### **Chapter 367 Section 21 Laws 2007**

Section 21. Section 59A-17-19 NMSA 1978 (being Laws 1984, Chapter 127, Section 315) is amended to read:

"59A-17-19. ADVISORY ORGANIZATIONS--LICENSING.--

A. A person, whether domiciled within or outside this state, may apply to the superintendent for license as an advisory organization for the kinds of insurance or subdivisions thereof as are specified in its application. The application shall include:

(1) a copy of its constitution, charter, articles of organization, agreement, association or incorporation and a copy of its bylaws, plan of operation and other rules governing conduct of its business;

(2) a list of its members and subscribers;

(3) the name and address of one or more residents of this state upon whom notices, process affecting it or orders of the superintendent may be served;

(4) a statement showing its technical qualifications for acting in the capacity for which it seeks a license;

(5) payment of the license application fee in an amount specified in Section 59A-6-1 NMSA 1978; and

(6) any other relevant information and documents that the superintendent may require.

B. Every advisory organization that has applied for a license shall promptly notify the superintendent in writing of every material change in the facts or in the documents on which its application was based, or of change in name, address of its process agent under Paragraph (3) of Subsection A of this section. No amendment to a document referred to in Paragraph (1) of Subsection A of this section shall be effective until not less than thirty days after the amendment is filed with the superintendent.

C. If the superintendent finds that the applicant and the individuals through whom it acts are competent, trustworthy and technically qualified to provide the services proposed, and that all requirements of law are met, the superintendent shall within sixty days after completion of the application issue a license to the applicant specifying the authorized activity; otherwise, the superintendent shall refuse to issue the license and shall promptly notify the applicant, specifying the grounds for refusal. The superintendent shall not issue a license if the proposed activity would tend to create a monopoly or lessen or destroy price competition.

D. Licenses issued pursuant to this section shall remain in effect until the licensee withdraws from the state or until the license is suspended or revoked, subject to annual continuation on May 1 of each year by payment of the continuation fee specified in Section 59A-6-1 NMSA 1978."

## **Chapter 367 Section 22 Laws 2007**

Section 22. Section 59A-17-20 NMSA 1978 (being Laws 1984, Chapter 127, Section 316) is amended to read:

"59A-17-20. SUSPENSION, REVOCATION OF LICENSE.--The superintendent shall promptly revoke the license of an advisory organization if it ceases business or withdraws from this state, and the superintendent may suspend or revoke the license if the superintendent finds after a hearing that:

A. the organization no longer meets the qualifications for licensing; or

B. the organization has failed to file amended documents as required under Section 59A-17-19 NMSA 1978, or has violated or failed to comply with any other material requirement of the Insurance Rate Regulation Law or any other law."

### **Chapter 367 Section 23 Laws 2007**

Section 23. Section 59A-17-21 NMSA 1978 (being Laws 1984, Chapter 127, Section 317) is amended to read:

"59A-17-21. CONDUCT OF ADVISORY ORGANIZATION.--

A. An advisory organization shall furnish its services without discrimination to its members and subscribers.

B. An advisory organization shall not adopt any rule, the effect of which would be to prohibit or regulate payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers."

### **Chapter 367 Section 24 Laws 2007**

Section 24. Section 59A-17-23 NMSA 1978 (being Laws 1984, Chapter 127, Section 319) is amended to read:

"59A-17-23. ADVISORY ORGANIZATIONS--APPEAL BY MINORITY.--A member of or subscriber to an advisory organization may appeal to the superintendent from the action or decision of the advisory organization in approving or rejecting a proposed change in or addition to the filings of the advisory organization and the superintendent shall, after a hearing, issue an order approving the action or decision of the advisory organization or directing it to give further consideration to the proposal; or, if the appeal is from the action or decision of the advisory organization in rejecting a proposed addition to its filings, the superintendent may, in the event the superintendent finds that the action or decision was unreasonable, issue an order directing the advisory organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with the superintendent's findings, within a reasonable time after the issuance of the order."

### **Chapter 367 Section 25 Laws 2007**

Section 25. Section 59A-17-25 NMSA 1978 (being Laws 1984, Chapter 127, Section 320, as amended) is amended to read:

"59A-17-25. JOINT UNDERWRITING, JOINT REINSURANCE POOL AND RESIDUAL MARKET MECHANISMS.--

A. A group, association or other organization of insurers that engages in joint underwriting, joint reinsurance pools or residual market mechanisms through the group,

association or organization or by standing agreement among the members, shall file with the superintendent:

(1) a copy of its constitution, its articles of incorporation, agreement or association and its bylaws and rules governing its activities, all duly certified by the custodian of the originals;

(2) a list of its members; and

(3) the name and address of a resident of this state upon whom notices or orders of the superintendent or process affecting the group, association or organization may be served.

B. Every such group, association or other organization shall notify the superintendent promptly in writing of changes in its constitution, its articles of incorporation, agreement or association, its bylaws and rules governing conduct of its business, its list of members or the name and address of its process agent referred to in Paragraph (3) of Subsection A of this section.

C. Every such group, association or organization shall be subject to regulation as herein provided, subject, however, as to joint underwriting to applicable provisions of the Insurance Rate Regulation Law, and as to joint reinsurance to Sections 59A-17-13, 59A-17-

32, 59A-17-34 and 59A-17-35 NMSA 1978.

D. No group, association or organization shall engage in an unfair or unreasonable practice with respect to its activities. If, after a hearing, the superintendent finds that an activity or practice of a group, association or organization is unfair or unreasonable or otherwise inconsistent with the provisions of the Insurance Rate Regulation Law, the superintendent may issue an order specifying the respects in which the activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of the Insurance Rate Regulation Law and requiring discontinuance of the activity or practice."

## **Chapter 367 Section 26 Laws 2007**

Section 26. Section 59A-17-26 NMSA 1978 (being Laws 1984, Chapter 127, Section 321) is amended to read:

"59A-17-26. BINDING AGREEMENTS BY INSURERS.--No insurer shall assume an obligation to a person other than a policyholder or other insurers that with it are under common control or management or are members of a joint underwriting organization subject to the provisions of Section 59A-17-25 NMSA 1978, to use or adhere to certain rates or rules, and no other person shall impose a penalty or other

adverse consequence for failure of an insurer to adhere to certain rates or rules except as to action by the superintendent in enforcement of Section 59A-17-12 NMSA 1978."

### **Chapter 367 Section 27 Laws 2007**

Section 27. Section 59A-17-27 NMSA 1978 (being Laws 1984, Chapter 127, Section 322) is amended to read:

"59A-17-27. COOPERATIVE ACTIVITIES AUTHORIZED.--Cooperation among advisory organizations or among organizations and insurers in rate making or in other matters within the scope of the Insurance Rate Regulation Law is hereby authorized, provided the filings resulting from the cooperation are subject to provisions of the Insurance Rate Regulation Law applicable to filings generally. The superintendent may review the cooperative activities and practices and if, after a hearing, the superintendent finds that the activity or practice is unfair or unreasonable or otherwise inconsistent with the Insurance Rate Regulation Law, the superintendent may issue an order specifying the respects in which the activity or practice is unreasonable or otherwise inconsistent with the Insurance Rate Regulation Law and requiring discontinuance of the activity or practice."

### **Chapter 367 Section 28 Laws 2007**

Section 28. Section 59A-17-28 NMSA 1978 (being Laws 1984, Chapter 127, Section 323) is amended to read:

"59A-17-28. RECORDING, REPORTING OF EXPERIENCE.--The superintendent shall promulgate or approve reasonable rules, including rules providing statistical plans, for use by all insurers in the recording and reporting of loss and expense experience, so that the experience of an insurer may be made available to the superintendent at least annually in such form and detail as may be necessary to aid the superintendent in determining whether rating systems comply with applicable rate standards and requirements. In promulgating the rules and plans the superintendent shall give due consideration to the rating systems on file with the superintendent and, so that the rules and plans may be as uniform as practicable among the several states, to the rules and form of plans used for rating systems in other states. No insurer shall be required to record or report its experience on a classification basis inconsistent with its own rating system. The superintendent may designate one or more advisory organizations to assist the superintendent in gathering that experience and making compilations of that experience, which shall be made available to insurers, advisory organizations and the public."

### **Chapter 367 Section 29 Laws 2007**

Section 29. Section 59A-17-29 NMSA 1978 (being Laws 1984, Chapter 127, Section 324) is amended to read:

"59A-17-29. EXCHANGE OF DATA, CONSULTATION AUTHORIZED.--

A. The superintendent may promulgate reasonable rules and plans for interchange among insurers, advisory organizations and others, of data necessary for application of rating plans.

B. For furtherance of uniformity in administration of rate regulatory laws, the superintendent and every insurer and advisory organization may exchange information and experience data with insurance regulatory officials, insurers and advisory organizations in this and other states and may consult with them as to rate making and the application of rating systems."

### **Chapter 367 Section 30 Laws 2007**

Section 30. Section 59A-17-30 NMSA 1978 (being Laws 1984, Chapter 127, Section 325) is amended to read:

"59A-17-30. INFORMATION TO BE FURNISHED INSUREDS--HEARINGS AND APPEALS OF INSUREDS.--

A. Every advisory organization and every insurer that makes its own rates shall, within time frames promulgated by the superintendent or, in the absence of time frames, within a reasonable time after receiving written request, furnish to an insured affected by a rate made by it, or to the authorized representative of the insured, all pertinent information as to the rate.

B. Every advisory organization and every insurer that makes its own rates shall provide within this state reasonable means whereby a person aggrieved by the application of its rating system may be heard, in person or by the person's authorized representative, on the person's written request to review the manner in which the rating system has been applied in connection with the insurance afforded the person. If the advisory organization or insurer fails to grant or reject the request within thirty days after it is made, the applicant may proceed in the same manner as if the application had been rejected. A party affected by the action of the rate service organization or the insurer on the request may, within thirty days after written notice of the action, appeal to the superintendent, who, after a hearing, may affirm or reverse the action. If, after the hearing, it is determined that the rates charged by an insurer are in excess of the otherwise appropriate rate, the overcharge shall be refunded to the insured."

### **Chapter 367 Section 31 Laws 2007**

Section 31. Section 59A-17-31 NMSA 1978 (being Laws 1984, Chapter 127, Section 326) is amended to read:

"59A-17-31. FALSE OR MISLEADING INFORMATION.--No person shall willfully withhold information from, or knowingly give false or misleading information to, the

superintendent or statistical agency designated by the superintendent or advisory organization or insurer that will affect rates or rating plans under the Insurance Rate Regulation Law. Violation of this section shall be subject to the penalties provided under Section 59A-1-18 NMSA 1978."

### **Chapter 367 Section 32 Laws 2007**

Section 32. Section 59A-17-32 NMSA 1978 (being Laws 1984, Chapter 127, Section 327) is amended to read:

"59A-17-32. EXAMINATION OF ADVISORY AND JOINT UNDERWRITING ORGANIZATIONS, JOINT REINSURANCE POOLS AND RESIDUAL MARKET MECHANISMS.--

A. To be informed about any matter related to enforcement of provisions of the Insurance Code, the superintendent may examine the affairs and condition of any advisory or joint underwriting organization, joint reinsurance pool or residual market mechanism. The superintendent shall examine every advisory organization and conduct the examinations at intervals established by rules promulgated by the superintendent.

B. In lieu of all or part of an examination, or in addition to an examination, the superintendent may order an independent audit by certified public accountants or actuarial evaluation by actuaries approved by the superintendent, or may accept the report of an audit already made by certified public accountants or actuarial evaluation by actuaries approved by the superintendent, or the report of an examination made by the insurance supervisory official of another state.

C. Conduct of the examination, examiners and other personnel used by the superintendent in making the examinations, payment of costs of the examination by the examinee, examination report and review and adoption and the examination in general shall be subject to the applicable provisions of Chapter 59A, Article 4 NMSA 1978."

### **Chapter 367 Section 33 Laws 2007**

Section 33. Section 59A-17-33 NMSA 1978 (being Laws 1984, Chapter 127, Section 328) is amended to read:

"59A-17-33. ENFORCEMENT--CEASE AND DESIST, INJUNCTIONS--PENALTIES.--

A. The superintendent shall enforce compliance with the provisions of the Insurance Rate Regulation Law. Whenever the superintendent believes that there is a violation of the Insurance Rate Regulation Law and that such violation is continuing, the superintendent shall serve upon the advisory, joint underwriting, joint reinsurance pool, residual market mechanism or insurer or other person violating, as the case may be, notice of a hearing before the superintendent to be held not less than twenty days after

service of the notice, and requiring the organization or person to show cause why the superintendent should not order the organization or person to cease and desist from the violation.

B. The superintendent, through the attorney general, may maintain an action to enjoin a continuing violation of the Insurance Rate Regulation Law.

C. After hearing, the superintendent may suspend the license of an advisory organization or insurer that fails to comply with the superintendent's order within the time limited by the order or an extension of time that the superintendent may grant. The suspension shall not become effective until the time prescribed for an appeal has expired, or if an appeal has been taken, until the order has been affirmed; otherwise, the superintendent may determine when the suspension shall become effective, and the suspension shall remain in effect for the period fixed unless the superintendent modifies or rescinds the suspension, or until the order on which suspension is based is modified, rescinded or reversed.

D. If the superintendent finds that a person has violated any provision of the Insurance Rate Regulation Law, the superintendent may impose a penalty of not more than ten thousand dollars (\$10,000) for each violation; but if the superintendent finds the violation to be willful, the superintendent may impose a penalty of not more than

twenty-five thousand dollars (\$25,000) for each violation. Such penalties may be in addition to any other penalty provided by law, and, if not paid voluntarily by the violator, may be collected through civil action in the district court of Santa Fe county in the name of the state of New Mexico on the relation of the insurance board.

E. For the purposes of this section, an insurer using a rate for which the insurer has failed to file the rate, supplementary rate information or supporting information, if Section 59A-17-9 NMSA 1978 requires the materials to be filed, shall have committed a separate violation for each day the failure continues."

## **Chapter 367 Section 34 Laws 2007**

Section 34. Section 59A-17-35 NMSA 1978 (being Laws 1984, Chapter 127, Section 330, as amended by Laws 1999, Chapter 265, Section 67 and also by Laws 1999, Chapter 289, Section 26) is amended to read:

"59A-17-35. APPEALS FROM COMMISSION.--Any order made by the commission pursuant to Section 59A-17-34 NMSA 1978 shall be subject to review by appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978. Upon institution of the appeal and for good cause shown upon motion and hearing, the court may, in the following cases, stay operation of the commission's order:

A. where, pursuant to the Insurance Rate Regulation Law, an advisory organization has been refused a license or an insurer has been refused a certificate of

authority or had its license or certificate of authority suspended, it may, with leave of court, be allowed to continue to engage in business, subject to the provisions of the Insurance Rate Regulation Law, pending final disposition of its application for review; or

B. where any order of the commission shall provide for, or sustain the superintendent's order for, a change in a rate or rating system that results in an increase or decrease in rates, an insurer affected may, with leave of court pending final disposition of the proceedings in the district court, continue to charge rates that existed prior to the order, on condition that the difference in the rates be deposited in a special escrow or trust account with a reputable financial institution by the insurer affected, to be held in trust by the insurer and to be retained by the insurer or paid to the holders of policies issued after the order of the court, as the court may determine."

### **Chapter 367 Section 35 Laws 2007**

Section 35. Section 59A-17-36 NMSA 1978 (being Laws 1989, Chapter 145, Section 2) is amended to read:

"59A-17-36. RATE FILING--FAILURE TO SUBMIT DATA--PENALTY.--

A. An insurer or advisory organization that makes a rate filing under the Insurance Rate Regulation Law and fails, without reasonable cause, to provide the data requested by the superintendent within thirty working days from the date of the request shall be subject to an administrative penalty as provided in Section 59A-1-18 NMSA 1978.

B. The superintendent may, for good cause shown, grant an extension of the thirty-

day time period provided for in Subsection A of this section.

C. The insurer or advisory organization may, within ten days after entry of the order, request a hearing before the superintendent as provided in Section 59A-17-34 NMSA 1978."

### **Chapter 367 Section 36 Laws 2007**

Section 36. Section 59A-18-12 NMSA 1978 (being Laws 1984, Chapter 127, Section 342, as amended) is amended to read:

"59A-18-12. FILING OF FORMS AND CLASSIFICATIONS--REVIEW OF EFFECT UPON INSURED.--

A. An insurance policy or annuity contract shall not be delivered or issued for delivery in this state, nor shall an assumption certificate, endorsement, rider or application that becomes a part of a policy be used, until a copy of the form and the

classification of risks pertaining to the policy have been filed with the superintendent. A filing shall be made at least sixty days before its proposed effective date. A filing made pursuant to this section shall not become effective nor shall it be used until approved by the superintendent pursuant to Section 59A-18-14 NMSA 1978, at which time it may be used. A filing for any kind of insurance other than life insurance or health insurance, as defined in the Insurance Rate Regulation Law, shall be deemed to meet the requirements of Chapter 59A, Article 18 NMSA 1978 to become effective unless disapproved pursuant to Section 59A-18-14 NMSA 1978 by the superintendent before the expiration of the waiting period or an extension of the waiting period. Provided, that:

(1) this subsection shall not apply as to policies, contracts, endorsements or riders of unique and special character not for general use or offering but designed and used solely as to a particular insured or risk;

(2) if the superintendent has exempted a person or a class of persons or a market segment from a part or all of the provisions of the Insurance Rate Regulation Law pursuant to Subsection C of Section 59A-17-2 NMSA 1978, the superintendent also may exempt by rule that person, class of persons or market segment from a part or all of the provisions of this subsection;

(3) an insurer subject to the Insurance Rate Regulation Law may authorize an advisory organization to file policy forms, endorsements and other contract language and related attachment rules on its behalf. Reference filings shall be made prior to their use or by other methods the superintendent may allow by rule; and

(4) the superintendent may, by rule, exempt various lines and kinds of commercial insurance, as defined in the Insurance Rate Regulation Law, from some or all of the requirements of this subsection.

B. A workers' compensation insurance policy covering a risk arising from the employment of a worker performing work for an employer in New Mexico when that employer is not domiciled in New Mexico shall not be issued or become effective, nor shall any endorsement or rider covering such a risk be issued or become effective, until a copy of the form and the classification of risks pertaining thereto have been filed with the superintendent.

C. An insured may in writing request the insurer to review the manner in which its filing has been applied as to insurance afforded the insured. If the insurer fails to make a review and grant appropriate relief within thirty days after the request is received, the insured may file a written complaint and request for a hearing with the superintendent, stating grounds relied upon. If the complaint charges a violation of the Insurance Code and the superintendent finds that the complaint was made in good faith and that the insured would be aggrieved if the violation is proved, the superintendent shall hold a hearing, with notice to the insured and insurer stating the grounds of complaint. If upon the hearing the superintendent finds the complaint justified, the superintendent shall order the insurer to correct the matter complained of within a reasonable time specified

but not less than twenty days after a copy of the order was mailed to or served upon the insurer."

## **Chapter 367 Section 37 Laws 2007**

Section 37. Section 59A-18-17 NMSA 1978 (being Laws 1984, Chapter 127, Section 346, as amended) is amended to read:

"59A-18-17. STANDARD PROVISIONS, IN GENERAL.--

A. Insurance contracts shall contain such standard or uniform provisions as are required by applicable provisions of the Insurance Code pertaining to contracts of particular kinds of insurance.

B. No policy shall contain a provision inconsistent with or contradictory to a standard or uniform provision used or required to be used, but the superintendent may approve a substitute provision that is, in the superintendent's opinion, not less favorable in any particular to the insured, owner or beneficiary than the provision otherwise required or that is designed to comply with Chapter 59A, Article 19 NMSA 1978.

C. Insurance coverage provided in residential property insurance policies shall provide coverage for the cost to repair or replace without deduction for depreciation. If the insured elects to effectuate repairs to the property by the insured's own self, a reasonable overhead expense shall be allowed.

D. In lieu of the provisions required by the Insurance Code for contracts for particular kinds of insurance, substantially similar provisions required by the laws of the domicile of a foreign or alien insurer may be used when approved by the superintendent.

E. A policy issued by a domestic insurer for delivery in another jurisdiction may contain any provision required or permitted under the laws of such jurisdiction.

F. To protect consumers as well as enhance the value of consumer information systems, the superintendent may specify minimum coverage provisions that homeowners insurance policies, private passenger non-fleet automobile insurance policies or other lines or kinds of insurance policies that are priced in a consumer information system shall contain, provided that such minimum coverage provisions are contained in the majority of policies in force in New Mexico for that line or kind of insurance. An insurer that does not offer a policy that contains the minimum coverage provisions specified by the superintendent for a line or kind of insurance shall not be included in a consumer information system for that line or kind of insurance. The superintendent shall not compel an insurer to offer a policy containing minimum coverage provisions specified by the superintendent."

## **Chapter 367 Section 38 Laws 2007**

Section 38. REPEAL.--Sections 59A-17-10, 59A-17-14, 59A-17-22, 59A-17-22.1 and 59A-17-24 NMSA 1978 (being Laws 1984, Chapter 127, Sections 306, 310 and 318, Laws 1986, Chapter 22, Section 100 and Laws 1984, Chapter 127, Section 319a, as amended) are repealed.

## **Chapter 367 Section 39 Laws 2007**

Section 39. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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Senate Bill 483

Approved April 6, 2007

# **LAWS 2007, CHAPTER 368**

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING FOR WARNING SIGNS AND BEACONS OR RUMBLE STRIPS IN ADVANCE OF TRAFFIC SIGNALS USED IN CONJUNCTION WITH CAMERAS THAT DETECT VIOLATIONS OF THE TRAFFIC SIGNAL.

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

## **Chapter 368 Section 1 Laws 2007**

Section 1. A new section of the Motor Vehicle Code is enacted to read:

"ADVANCE SIGNAL WARNING REQUIRED.--

A. As used in this section:

(1) "camera monitor" means a device or instrument that records a visual image of a motor vehicle being operated in violation of a traffic signal's red light directive to stop;

(2) "controller assembly" means a complete electrical device mounted in a cabinet for controlling the operation of a traffic signal;

(3) "rumble strips" means grooves in pavement or rows of raised pavement markers placed perpendicular to the direction of travel in a street or highway lane to alert inattentive drivers to a lane or traffic condition;

(4) "traffic signal" means a power-operated traffic control device by which traffic is alternately directed to stop and permitted to proceed; and

(5) "warning beacon" means a power-operated traffic control device with one or more signal sections that operates in a flashing mode.

B. When a county or municipality, including a home-rule municipality that has adopted a charter pursuant to Article 10, Section 6 of the constitution of New Mexico, uses a camera monitor in conjunction with a traffic signal at an intersection or other location to detect violation of the traffic signal's red light directive to stop, the county or municipality shall install, on streets or highways approaching the traffic signal from directions covered by the camera monitor, a warning sign or signs supplemented by a warning beacon or rumble strips.

C. The warning beacon described in Subsection B of this section shall be installed, together with the warning sign or signs, at a location and interconnected with the traffic signal controller assembly in a manner that will cause the beacon to flash yellow during the period when a person driving a motor vehicle passing the beacon at the legal speed for the street or highway will encounter a traffic signal red light, or a queue of motor vehicles resulting from the display of the red light, upon arrival at the signalized location.

D. If rumble strips described in Subsection B of this section are used, they shall be installed, together with warning signs, at a location in advance of a traffic signal so as to provide a driver, moving over the rumble strips at the legal speed for the street or highway, with warning that if the traffic signal is displaying a yellow signal, the driver will encounter a traffic signal red light, or a queue of motor vehicles resulting from the display of the red light, upon arrival at the signalized location.

E. Warning signs used with beacons or rumble strips shall warn a driver that the driver may encounter a traffic signal displaying a red light at an upcoming intersection and that the traffic signal is photo-enforced. When used with rumble strips, a warning sign shall be installed facing traffic approaching a signalized location on the near side of the street or highway and, if appropriate, a warning sign shall also be installed facing traffic approaching a signalized location on a median dividing opposite directions of traffic.

F. The warning sign and warning beacon described in Subsection B of this section shall comply with signs and beacons appropriate for the purposes of this section provided in the manual of uniform traffic control devices adopted by the state transportation commission pursuant to Section 66-7-101 NMSA 1978."

Approved April 6, 2007

## **LAWS 2007, HOUSE JOINT RESOLUTION 8**

### A JOINT RESOLUTION

RATIFYING AND APPROVING THE SALE OR TRADE OF REAL PROPERTY IN SANTA FE COUNTY.

WHEREAS, Section 13-6-3 NMSA 1978 requires ratification and approval of any sale or trade of real property belonging to a state agency for a consideration of one hundred thousand dollars (\$100,000) or more; and

WHEREAS, the property control division of the general services department has title to approximately four and forty-five hundredths acres at the southeast corner of St. Michael's drive at St. Francis drive in the city of Santa Fe in Santa Fe county, being more particularly described as follows:

Beginning at the northwest corner of the herein described tract of land, from which point, City of Santa Fe Control Monument No, West of St. Francis Drive, bears South 45 38'32" West 882.24 feet; thence from said point and place of beginning of a circular curve concave to the west (Delta=01 15' 47"; Radius=1059.33 feet; Chord=north 40 28'01"east-23.35 feet); thence North 37 22'57" East, 148.44'; thence South 60 23' 19" East, 312.48' to the Northeast corner of said tract; thence South 26 59' 45" West, 254.47 feet; thence South 25 23' 45" West, 198.40 feet; thence South 26 16' 50" West, 122.24 feet to the Southeast corner of said tract; thence North 63 44' 54" West, 298.92 feet to the Southwest corner of said tract; said corner being the beginning of a circular curve concave to the Southeast (Delta=28 24' 16"; Radius=1045.92 feet; Chord=North 23 03'47" East=513.22 feet); thence along said curve, an arc length of 518.52 feet; thence North 37 22' 57" East, 82.51 feet to the corner of said tract, containing 4.451 acres more or less; and

WHEREAS, the property is not needed for its originally intended use as a site for the proposed state library, archives and records center, but that the property should be traded for real estate more advantageous for state use or the property should be sold so that the proceeds of the sale can be used to acquire more advantageous property;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the property control division of the general services department be authorized to trade or sell the described property at the southeast corner of St. Michael's drive at St. Francis drive in Santa Fe in Santa Fe county and that the trade or sale is hereby ratified and approved pursuant to the provisions of Section 13-6-3 NMSA 1978, subject to the conditions of this resolution; and

BE IT FURTHER RESOLVED that if the property is traded, both parcels shall be appraised by one appraiser that is mutually agreeable to the property control division of

the general services department, the private owner and the property tax division of the taxation and revenue department and the appraisal of both parcels shall be reviewed and validated by the property tax division of the taxation and revenue department; and

BE IT FURTHER RESOLVED that if the property is sold, the property shall be appraised by an appraiser selected by the property control division of the general services department and approved by the property tax division of the taxation and revenue department and the appraisal of the property shall be reviewed and validated by the property tax division of the taxation and revenue department; and

BE IT FURTHER RESOLVED that the property shall not be sold or traded until the sale or trade has been reviewed by the capitol buildings planning commission; and

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the property control division of the general services department.

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House Joint Resolution 8

## **LAWS 2007, HOUSE JOINT RESOLUTION 14**

### A JOINT RESOLUTION

AUTHORIZING AND DIRECTING THE GENERAL SERVICES DEPARTMENT TO TAKE CERTAIN ACTIONS IN CONNECTION WITH STATE-OWNED PROPERTY LOCATED IN BERNALILLO COUNTY TO ENABLE THE WIDENING OF EDITH BOULEVARD TO PROCEED.

WHEREAS, Bernalillo county is conducting a public works project involving widening Edith boulevard north of the city of Albuquerque; and

WHEREAS, in connection with this project there is a demonstrated need to acquire the use of the below-described state-owned real property for the purpose of construction of a water detention pond:

"a part of the real property formerly used as a state girls home consisting of a parcel of an area of 10.6525 acres, designated as "Parcel C", filed on 9/23/74 in Vol. CIO, Folio 39 and shown on Sheet No. 12 of the project plans prepared by Boyle Engineering Corporation entitled "Pond #1 Widening of Edith Boulevard Right of Way Map"; and

WHEREAS, Bernalillo county does not have sufficient funds for this project to purchase the property needed from the state;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that in accordance with the provisions of Section 13-6-3 NMSA 1978, the general services department be authorized to:

A. lease the property above-described to Bernalillo county until that county is able to negotiate an acceptable exchange for or purchase of the property with the department so that title may be transferred to the county, but the lease authorized shall not exceed a term of five years;

B. permit Bernalillo county under the terms of the lease of the property to construct a water-detention pond on the property; and

C. sell, lease or exchange the property, subject to the approval of the capitol buildings planning commission.

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House Joint Resolution 14, as amended

## **LAWS 2007, SENATE JOINT RESOLUTION 13**

### A JOINT RESOLUTION

GRANTING PRIOR APPROVAL TO SELL LAND IN LAS CRUCES OWNED BY THE PROPERTY CONTROL DIVISION OF THE GENERAL SERVICES DEPARTMENT ON BEHALF OF THE WORKERS' COMPENSATION ADMINISTRATION OR TO EXCHANGE THE LAND FOR LAND OWNED BY THE CITY OF LAS CRUCES IN DONA ANA COUNTY.

WHEREAS, Section 13-6-3 NMSA 1978 requires ratification and approval of any sale, trade or lease of state property for a period exceeding twenty-five years and for over one hundred thousand dollars (\$100,000) in value; and

WHEREAS, Laws 2002, Chapter 110, Section 49 appropriated two million eight hundred thousand dollars (\$2,800,000) from the workers' compensation administration fund to the capital program fund "to acquire land, design, plan, construct or remodel, equip and furnish office buildings in Las Cruces in Dona Ana county and in Farmington in San Juan county"; and

WHEREAS, a parcel of land in downtown Las Cruces of approximately one and seventy-six hundredths acres, located on the corner of Lohman avenue and Alameda boulevard, was purchased on December 30, 2002; and

WHEREAS, Paragraph (1) of Subsection B of Section 44 of Chapter 126 of Laws 2004 appropriated two hundred thousand dollars (\$200,000) to the capital program fund

"to plan and design a new state office building in Las Cruces to reduce the cost of leasing and to co-locate state agencies in a state-owned facility"; and

WHEREAS, co-location of offices facilitates public access to state services and reduces capital expenditure requirements by sharing infrastructure costs; and

WHEREAS, in connection with its downtown revitalization efforts, the city of Las Cruces has expressed an interest in acquiring the state-owned property held by the general services department on behalf of the workers' compensation administration; and

WHEREAS, the workers' compensation administration in Las Cruces may be co-located with other state agencies in a state office building, and funds appropriated to house the workers' compensation administration in Las Cruces may contribute to the state office building;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the property control division of the general services department may sell to or exchange

state-owned land with the city of Las Cruces in Dona Ana county, and the sale or exchange is ratified and approved pursuant to the provisions of Section 13-6-3 NMSA 1978; and

BE IT FURTHER RESOLVED that the state-owned property shall not be sold or exchanged for less than the value of the property established by the taxation and revenue department using generally acceptable appraisal techniques for this type of property and that the state shall not acquire land from the city of Las Cruces for more than the value of the property established by the taxation and revenue department using generally acceptable appraisal techniques for this type of property; and

BE IT FURTHER RESOLVED that the properties shall be appraised by one appraiser that is mutually agreed to by the property control division of the general services department, the city of Las Cruces and the property tax division of the taxation and revenue department; and

BE IT FURTHER RESOLVED that the appraisal of land shall be reviewed and validated by the property tax division of the taxation and revenue department; and

BE IT FURTHER RESOLVED that the owner of the parcel with the lower appraised value shall pay to the owner of the parcel with the higher appraised value the difference between the value of the parcels to be exchanged; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the property control division of the general services department, the workers' compensation administration, the city of Las Cruces and the property tax division of the taxation and revenue department.

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Senate Joint Resolution 13, as amended

## **LAWS 2007, SENATE JOINT RESOLUTION 16**

### A JOINT RESOLUTION

RATIFYING AND APPROVING THE LEASE, SALE OR TRADE OF REAL PROPERTY IN BERNALILLO COUNTY.

WHEREAS, Section 13-6-3 NMSA 1978 requires ratification and approval of any sale or trade or lease of more than twenty-five years of real property belonging to a state agency for a consideration of one hundred thousand dollars (\$100,000) or more; and

WHEREAS, the property control division of the general services department has title to approximately seventy-sixth hundredths of an acre at 401 Roma avenue northwest in Albuquerque in Bernalillo county, more popularly known as the "Albuquerque government center" or the "old metro court building"; and

WHEREAS, the property is not needed by the state for any purpose and should be leased, traded or sold;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the property control division of the general services department be authorized to lease the described property at 401 Roma avenue northwest in Albuquerque in Bernalillo county for a term of more than twenty-five years; and that the lease is hereby ratified and approved pursuant to the provisions of Section 13-6-3 NMSA 1978, subject to the conditions of this resolution; and

BE IT FURTHER RESOLVED that if, after reasonable efforts, the property control division of the general services department is unable to lease the property, the division may trade or sell the described property and that the trade or sale is hereby ratified and approved pursuant to the provisions of Section 13-6-3 NMSA 1978, subject to the conditions of this resolution; and

BE IT FURTHER RESOLVED that if the property is traded, both parcels shall be appraised by one appraiser that is mutually agreeable to the property control division of the general services department, the private owner and the property tax division of the taxation and revenue department and the appraisal of both parcels shall be reviewed and validated by the property tax division of the taxation and revenue department; and

BE IT FURTHER RESOLVED that if the property is sold, the property shall be appraised by an appraiser selected by the property control division of the general services department and approved by the property tax division of the taxation and

revenue department and the appraisal of the property shall be reviewed and validated by the property tax division of the taxation and revenue department; and

BE IT FURTHER RESOLVED that the property shall not be leased, sold or traded until the sale or trade has been reviewed by the capitol buildings planning commission; and

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the property control division of the general services department.

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Senate Joint Resolution 16, as amended

## **LAWS 2007, SENATE JOINT RESOLUTION 21**

### A JOINT RESOLUTION

APPROVING THE NEGOTIATED AMENDMENTS TO EXISTING TRIBAL-STATE CLASS III GAMING COMPACTS TO BE ENTERED INTO BY THE GOVERNOR OF THE STATE OF NEW MEXICO AND THE PUEBLOS OF ISLETA, LAGUNA, SANDIA, SAN FELIPE, SANTA ANA, SANTA CLARA, TAOS AND TESUQUE AND WITH OHKAY OWINGEH AND THE JICARILLA APACHE NATION.

WHEREAS, the Compact Negotiation Act authorizes the governor to negotiate the terms of compacts between the state and Indian nations, tribes and pueblos located in New Mexico, referred to as "tribes" herein, for the conduct of class III gaming pursuant to the federal Indian Gaming Regulatory Act; and

WHEREAS, in 2001, a negotiated compact for class III gaming was approved by the legislature and by the United States department of the interior, and was entered into by the governor on behalf of the state with each of the gaming tribes in New Mexico; and

WHEREAS, the Compact Negotiation Act provides for legislative involvement in the negotiation process through the deliberations of the legislative committee on compacts and by requiring the approval of amendments to a compact by a majority vote of both houses of the legislature on a joint resolution approving the amendments before the amendments may be executed by the governor; and

WHEREAS, Governor Bill Richardson on January 26, 2007 submitted to the legislative committee on compacts proposed amendments to the compact adopted in 2001, including an appendix to the 2001 compacts that clarified certain issues, that were negotiated on behalf of the state with eleven tribes who requested negotiations pursuant to the Compact Negotiation Act; and

WHEREAS, the legislative committee on compacts reviewed the proposed amendments to the compacts from ten tribes and requested the governor to resume negotiations with the tribes to consider one amendment; and

WHEREAS, the amendment was rejected; however, additional amendments were negotiated by the tribes and the governor, and all amendments were approved by the legislative committee on compacts on March 7, 2007; and

WHEREAS, the Compact Negotiation Act allows the legislature to approve more than one tribe's compact or amendments in a single resolution if the terms of the compacts or amendments are identical, except for the names of the tribes and the persons executing the proposed amendments to the compacts; and

WHEREAS, the Compact Negotiation Act allows the governor to execute additional amendments identical to those approved pursuant to that act without submitting the identical amendments for legislative approval; and

WHEREAS, the legislative committee on compacts has reviewed and considered the proposed amendments negotiated and agreed upon by the governor and the Pueblos of Isleta, Laguna, Sandia, San Felipe, Santa Ana, Santa Clara, Taos and Tesuque, Ohkay Owingeh and the Jicarilla Apache Nation and, based upon those deliberations and pursuant to the Compact Negotiation Act, hereby submits those proposed amendments to the class III gaming compact approved by the legislature in 2001 with its recommendation that the amendments be approved by the full legislature;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed amendments to the 2001 class III tribal-state gaming compacts, attached hereto, submitted to the legislative committee on compacts on January 26, 2007, as further amended and submitted on March 5, 2007, negotiated and agreed to by the state and the Pueblos of Isleta, Laguna, Sandia, San Felipe, Santa Ana, Santa Clara, Taos and Tesuque, Ohkay Owingeh and the Jicarilla Apache Nation, be hereby approved.

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Senate Joint Resolution 21

## **SENATE JOINT RESOLUTION 21, LAWS 2007 APPENDIX**

TRIBAL-STATE CLASS III GAMING COMPACT

State of New Mexico  
as Amended, 2007

## **INTRODUCTION**

The State of New Mexico ("State") is a sovereign State of the United States of America, having been admitted to the Union pursuant to the Act of June 20, 1910, 36 Statutes at Large 557, Chapter 310, and is authorized by its constitution to enter into contracts and agreements, including this Compact, with the Tribe;

The Tribe ("Tribe") is a sovereign federally recognized Indian tribe and its governing body has authorized the officials of the Tribe to enter into contracts and agreements of every description, including this Compact, with the State;

The Congress of the United States has enacted the Indian Gaming Regulatory Act of 1988, 25 U.S.C. § § 2701-272 1 (hereinafter "IGRA"), which permits Indian tribes to conduct Class III Gaming on Indian Lands pursuant to a tribal-state compact entered into for that purpose;

The 1999 State legislature has enacted SB 737, as 1999 N.M. Laws, ch. 252, known as the "Compact Negotiation Act," creating a process whereby the State and the Tribe have engaged in negotiations leading to this Compact, with review by a joint legislative committee, and with final approval by a majority vote in each house of the legislature;

The Tribe owns or controls Indian Lands and by Ordinance has adopted rules and regulations governing Class III games played and related activities at any Gaming Facility; The State and the Tribe, in recognition of the sovereign rights of each party and in a spirit of cooperation to promote the best interests of the citizens of the State and the members of the Tribe, have engaged in good faith negotiations recognizing and respecting the interests of each party and have agreed to this Compact.

NOW, THEREFORE, the State and the Tribe agree as follows:

### **SECTION 1. Purpose and Objectives.**

The purpose and objectives of the State and the Tribe in making this Compact are as follows:

- A. To evidence the good will and cooperative spirit between the State and the Tribe;
- B. To continue the development of an effective government-to-government relationship between the State and the Tribe;
- C. To provide for the regulation of Class III Gaming on Indian Lands as required by the IGRA;

D. To fulfill the purpose and intent of the IGRA by providing for tribal gaming as a means of generating tribal revenues, thereby promoting tribal economic development, tribal self-sufficiency, and strong tribal government;

E. To provide revenues to fund tribal government operations or programs, to provide for the general welfare of the tribal members and for other purposes allowed under the IGRA;

F. To provide for the effective regulation of Class III Gaming in which the Tribe shall have the sole proprietary interest and be the primary beneficiary; and

G. To address the State's interest in the establishment, by the Tribe, of rules and procedures for ensuring that Class III Gaming is conducted fairly and honestly by the owners, operators, employees and patrons of any Class III Gaming enterprise on Indian Lands.

H. To settle and resolve certain disputes that have arisen between the Tribe and the State under the provisions of the Predecessor Agreements.

## **SECTION 2. Definitions.**

For purposes of this Compact, the following definitions pertain:

A. "Class III Gaming" means all forms of gaming as defined in 25 U.S.C. § 2703(8), and 25 C.F.R. § 502.4.

B. "Compact" means this compact between the State and the Tribe, and including the Appendix attached hereto.

C. "Gaming Employee" means a person connected directly with the conduct of Class III Gaming, or handling the proceeds thereof or handling any Gaming Machine; but "Gaming Employee" does not include:

1. Bartenders, cocktail servers or other persons engaged solely in preparing or serving food or beverages;
2. Secretarial or janitorial personnel;
3. Stage, sound and light technicians; or
4. Other nongaming personnel.

D. "Gaming Enterprise" means the tribal entity created and designated by the Tribe as having authority to conduct Class III Gaming pursuant to this Compact.

E. "Gaming Facility" means all buildings or structures in which Class III Gaming is conducted on the Tribe's Indian Lands, subject to the limitations set forth in Section 3 of this Compact.

F. "Gaming Machine" means a mechanical, electromechanical or electronic contrivance or machine that, upon insertion of a coin, token or similar object, or upon payment of any consideration in any manner, is available to play or operate a game of chance in which the outcome depends to a material degree on an element of chance, notwithstanding that some skill may be a factor, whether the payoff is made automatically from the Gaming Machine or in any other manner; but Gaming Machine does not include a Table Game or any device utilized in Table Games. Additional clarification of this definition is set forth in the attached Appendix.

G. "Indian Lands" means:

1. all lands within the exterior boundaries of the Tribe's reservation and its confirmed grants from prior sovereigns; or

2. any other lands title to which is either held in trust by the United States for the exclusive benefit of the Tribe or a member thereof or is held by the Tribe or a member thereof subject to restrictions against alienation imposed by the United States, and over which the Tribe exercises jurisdiction and governmental authority, but not including any land within the boundaries of a municipality that is outside of the boundaries of the Tribe's reservation or confirmed Spanish grant, as those boundaries existed on October 17, 1988.

H. "Key Employee" means that term as defined in 25 CFR Section 502.14.

I. "Management Contract" means a contract within the meaning of 25 U.S.C. §§ 2710(d)(9) and 2711.

J. "Management Contractor" means any person or entity that has entered into a Management Contract with the Tribe or the Gaming Enterprise.

K. "Ordinance" means the gaming ordinance and any amendments thereto adopted by the Tribal Council of the Tribe.

L. "Predecessor Agreements" means the tribal-state class III gaming compact and the accompanying revenue sharing agreement entered into between the Tribe and the State pursuant to 1997 Laws, ch. 190, §§ 1, 2.

M. "Primary Management Official" means that term as defined in 25 CFR Section 502.19.

N. "State" means the State of New Mexico.

O. "State Gaming Representative" means that person designated by the gaming control board pursuant to the Gaming Control Act [60-2E-1 to 60-2E-60 NMSA 1978] who will be responsible for actions of the State set out in the Compact. The State Legislature may enact legislation to establish an agency of the State to perform the duties of the State Gaming Representative.

P. "Tribal Gaming Agency" means the tribal governmental agency which will be identified to the State Gaming Representative as the agency responsible for actions of the Tribe set out in the Compact. It will be the single contact with the State and may be relied upon as such by the State.

Q. "Tribe" means any Indian Tribe, Nation or Pueblo located within the State of New Mexico entering into this Compact as provided for herein.

R. "Table Game" means a Class III game of chance, in which the outcome depends to a material degree on an element of chance, notwithstanding that some skill may be a factor, that is played using a wheel, cards or dice, and that requires an attendant to initiate the game or to collect wagers or pay prizes. Additional clarification of this definition is set forth in the attached Appendix.

### **SECTION 3. Authorized Class III Gaming.**

A. The Tribe may conduct, only on Indian Lands, subject to all of the terms and conditions of this Compact, any or all forms of Class III Gaming.

B. Subject to the foregoing, the Tribe shall establish, in its discretion, by tribal law, such limitations as it deems appropriate on the number and type of Class III Gaming conducted, the location of Class III Gaming on Indian Lands, the hours and days of operation, and betting and pot limits, applicable to such gaming.

C. In no event shall the Tribe's Gaming Facility consist of more than two separate physical buildings or structures on its Indian Lands; but provided that in addition to the two separate physical buildings or structures otherwise permitted by this Section 3(C), the Pueblo of Laguna is authorized to conduct gaming operations at the Route 66 Casino Express, subject to the limitations that: (1) the Route 66 Casino Express shall not be moved from its location as of December 1, 2006, except as may be made necessary by improvements to the highway interchange with I-40; (2) the gaming operations at the Route 66 Casino Express shall not be expanded beyond the level of gaming operations in existence on December 1, 2006; and (3) the Pueblo of Laguna shall have an authorized representative sign a sworn affidavit that shall provide a detailed description of the gaming operations as of that date, including the hours and days of operation, the specific number of Gaming Machines, and any other gaming activities, and shall submit said affidavit to the State Gaming Representative.

### **SECTION 4. Conduct of Class III Gaming.**

A. Tribal Gaming Agency. The Tribal Gaming Agency will assure that the Tribe will:

1. operate all Class III Gaming pursuant to this Compact, tribal law, the IGRA and other applicable Federal law;
2. provide for the physical safety of patrons in any Gaming Facility;
3. provide for the physical safety of personnel employed by the Gaming Enterprise;
4. provide for the physical safeguarding of assets transported to and from the Gaming Facility and cashier's cage department;
5. provide for the protection of the property of the patrons and the Gaming Enterprise from illegal activity;
6. participate in licensing of primary management officials and key employees of a Class III Gaming Enterprise;
7. detain persons who may be involved in illegal acts for the purpose of notifying law enforcement authorities; and
8. record and investigate any and all unusual occurrences related to Class III Gaming within the Gaming Facility.

B. Regulations. Without affecting the generality of the foregoing, the Tribe shall adopt laws:

1. prohibiting participation in any Class III Gaming by any person under the age of twenty-one (21);
2. prohibiting the employment of any person as a Gaming Employee who is under the age of twenty-one (21) or who has not been licensed in accordance with the applicable requirements of federal and tribal law;
3. requiring the Tribe to take all necessary action to impose on its gaming operation standards and requirements equivalent to or more stringent than those contained in the federal Fair Labor Standards Act of 1938, the federal Occupational Safety and Health Act of 1970, and any other federal laws generally applicable to Indian tribes relating to wages, hours of work and conditions of work, and the regulations issued thereunder;
4. requiring that on any construction project involving any Gaming Facility or related structure that is funded in whole or in part by federal funds, all workers

will be paid wages meeting or exceeding the standards established for New Mexico under the federal Davis-Bacon Act;

5. prohibiting the Tribe, the Gaming Enterprise and a Management Contractor from discriminating in the employment of persons to work for the gaming Enterprise or in the Gaming Facility on the grounds of race, color, national origin, gender, sexual orientation, age or handicap, provided, however, that nothing herein shall be interpreted to prevent the Tribe from granting preference in employment actions to tribal members or other Indians in accordance with established tribal laws and policies;

6. providing to all employees of a gaming establishment employment benefits, including, at a minimum, sick leave, life insurance, paid annual leave and medical and dental insurance as well as providing unemployment insurance and workers' compensation insurance through participation in programs offering benefits at least as favorable as those provided by comparable state programs, and which programs shall afford the employees due process of law and shall include an effective means for an employee to appeal an adverse determination by the insurer to an impartial forum, such as (but not limited to) the Tribe's tribal court, which appeal shall be decided in a timely manner and in an administrative or judicial proceeding and as to which no defense of tribal sovereign immunity would be available; and provided that to fulfill this requirement the Tribe may elect to participate in the State's program upon execution of an appropriate agreement with the State;

7. providing a grievance process for an employee in cases of disciplinary or punitive action taken against an employee that includes a process for appeals to persons of greater authority than the immediate supervisor of the employee;

8. permitting State Department of Environment inspectors to inspect the Gaming Facility's food service operations during normal Gaming Facility business hours to assure that standards and requirements equivalent to the State's Food Service Sanitation Act [Chapter 25, Article 1 NMSA 1978] are maintained;

9. prohibiting a gaming enterprise from cashing any paycheck or any type of government assistance check, including Social Security, TANF, pension and other similar checks, for any patron;

10. prohibiting a gaming enterprise from extending credit by accepting IOUs or markers from its patrons;

11. requiring that automatic teller machines on Gaming Facility premises be programmed so that the machines will not accept cards issued by the State to TANF recipients for access to TANF benefits;

12. providing that each electronic or electromechanical gaming device in use at the Gaming Facility must pay out a mathematically demonstrable percentage

of all amounts wagered, which must not be less than eighty percent (80%), and requiring the Gaming Enterprise to prominently post in visible locations within the Gaming Facility notices stating that the Gaming Enterprise is in compliance with this requirement, and providing a comprehensible explanation of the meaning of this requirement;

13. providing that all gaming machines on the premises of the Gaming Facility will be connected to a central computerized reporting and auditing system on the Gaming Facility premises, which shall collect on a continual basis the unaltered activity of each Gaming Machine in use at the Gaming Facility, and that, the wager and payout data of each machine, electronically captured by the Gaming Enterprise's central computer, may be accessed and downloaded electronically by the State Gaming Representative by a dedicated telecommunications connection, on a "read-only" basis, upon entry of appropriate security codes; but provided that in no event shall the State Gaming Representative be able to alter or affect the operation of any Gaming Machine or other device on the premises of the Gaming Facility, or the data provided to the central computer, and provided further that the system for electronic access to the machine wager and payout data collected by the Gaming Enterprise's central computer shall be constructed and installed at the State's cost, and shall be designed in conjunction with Gaming Enterprise technical staff so as to preserve the integrity of the system and the data contained therein, to minimize any possibility of unauthorized access to the system or tampering with the data, and to minimize any access by the State Gaming Representative to information other than machine wager and payout data residing in the central reporting and auditing system;

14. enacting provisions that:

(a) prohibit an employee of the Gaming Enterprise from selling, serving, giving or delivering an alcoholic beverage to an intoxicated person or from procuring or aiding in the procurement of any alcoholic beverage for an intoxicated person at the Gaming Facility;

(b) require Gaming Enterprise employees that dispense, sell, serve or deliver alcoholic beverages to attend Alcohol Server Education Classes similar to those classes provided for in the New Mexico Liquor Control Act; and

(c) require the Gaming Enterprise to purchase and maintain a liquor liability insurance policy that will provide, at a minimum, personal injury coverage of one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) aggregate per policy year;

15. prohibiting alcoholic beverages from being sold, served, delivered or consumed in that part of a Gaming Facility where gaming is allowed;

16. requiring the gaming enterprise to spend an amount that is no less than one-quarter of one percent (.25%) of its net win as that term is defined herein

annually to fund or support programs for the treatment and assistance of compulsive gamblers in New Mexico or who patronize New Mexico gaming facilities, and for the prevention of compulsive gambling in New Mexico; and requiring that a substantial portion of such funds be distributed to an organization that has expertise in and provides counseling, intervention or other services for compulsive gamblers in New Mexico, and whose services are available to all persons without regard to race or tribal membership; and provided that any information existing as a result of this Section, not including information that may identify or contain information referring to any gaming patron, shall not be subject to the confidentiality provisions of Section 4(E)(4) of this Compact and shall be made available for inspection and publication without restriction or limitation;

17. governing any Management Contract regarding its Class III Gaming activity so that it conforms to the requirements of tribal law and the IGRA and the regulations issued thereunder;

18. prohibiting the operation of any Class III Gaming for at least four (4) consecutive hours daily, Mondays through Thursdays (except federal holidays);

19. prohibiting a Tribal Gaming Enterprise and the Tribe from providing, allowing, contracting to provide or arranging to provide alcoholic beverages for no charge or at reduced prices, or from providing, allowing, contracting to provide or arranging to provide food or lodging for no charge or at nominal prices, at a Gaming Facility or lodging facility as an incentive or enticement for patrons to game, except that this provision shall not apply to rewards received by patrons in exchange for points or credits accrued under any form of a players' club program; and

20. requiring the Tribe, the Tribal Gaming Enterprise or a Management Contractor to report to the secretary of state, in the same manner and at the same times as are required of political committees under the provisions of the State's Campaign Reporting Act (NMSA 1978 §§ 1-19-25 through 1-19-36) any and all contributions, whether directly or through an agent, representative or employee, of any moneys derived from revenue from the Gaming Enterprise, or of anything of value acquired with that revenue, to a candidate, political committee or person holding an office elected or to be elected at an election covered by the State's Campaign Reporting Act and provided that in the event any report required to be made hereunder is not made within the time specified herein, or is false or incomplete in any respect, the Tribe shall be liable to pay to the secretary of state a penalty in the amount of fifty dollars (\$50.00) for each working day after the day on which the report was due until the day on which the complete or true report is filed, up to a maximum of five thousand dollars (\$5000), except that with respect to the report due on the Friday before an election the penalty shall be five hundred dollars (\$500) for the first working day after the due date and fifty dollars (\$50.00) per working day thereafter, up to a maximum of five thousand dollars (\$5000).

The Tribal Gaming Agency will provide true copies of all tribal laws and regulations affecting Class III Gaming conducted under the provisions of this Compact to the State Gaming Representative within thirty (30) days after the effective date of this Compact, and will provide true copies of any amendments thereto or additional laws or regulations affecting gaming within thirty (30) days after their enactment or approval, if any.

C. Audit and Financial Statements. The Tribal Gaming Agency shall require all books and records relating to Class III Gaming to be maintained in accordance with generally accepted accounting principles. All such books and records shall be retained for a period of at least five (5) years from the date of creation, as required by 25 C.F.R. § 571.7(c). Not less than annually, the Tribal Gaming Agency shall require an audit and a certified financial statement covering all financial activities of the Gaming Enterprise, including written verification of the accuracy of the quarterly Net Win calculation, by an independent certified public accountant licensed by the State. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall specify the total amount wagered in Class III Gaming on all Gaming Machines at the Tribe's Gaming Facility for purposes of calculating "Net Win" under Section 11 of this Compact using the format specified therein. The financial statement and audit report shall be submitted to the Tribal Gaming Agency, the State Gaming Representative, and the State Treasurer, within one hundred twenty (120) days of the close of the Tribe's fiscal year. Such documents shall be subject to the provisions of § 4(E)(4) of this Compact. The Tribe will maintain the following records for not less than five (5) years:

1. revenues, expenses, assets, liabilities and equity for each Gaming Enterprise;
2. daily cash transactions for each Class III Gaming activity at each Gaming Facility, including but not limited to transactions relating to each gaming table bank, game dropbox and gaming room bank;
3. individual and statistical game records, except for card games, to reflect statistical drop and statistical win; for electronic, computer, or other technologically assisted games, analytic reports which show the total amount of cash wagered and the total amount of prizes won;
4. contracts, correspondence and other transaction documents relating to all vendors and contractors;
5. records of all tribal gaming enforcement activities;
6. audits prepared by or on behalf of the Tribe; and
7. personnel information on all Class III Gaming employees or agents, including rotation sheets, hours worked, employee profiles and background checks.

D. Violations. The agents of the Tribal Gaming Agency shall have unrestricted access to the Gaming Facility during all hours of Class III Gaming activity, and shall have immediate and unrestricted access to any and all areas of the Gaming Facility for the purpose of ensuring compliance with the provisions of this Compact and the Ordinance. The agents shall report immediately to the Tribal Gaming Agency any suspected violation of this Compact, the Ordinance, or regulations of the Tribal Gaming Agency by the gaming enterprise, Management Contractor, or any person, whether or not associated with Class III Gaming.

E. State Gaming Representative.

1. Upon written request by the State to the Tribe, the Tribe will provide information on primary management officials, key employees and suppliers, sufficient to allow the State to conduct its own background investigations, as it may deem necessary, so that it may make an independent determination as to the suitability of such individuals, consistent with the standards set forth in Section 5 of this Compact. The Tribe shall consider any information or recommendations provided to it by the State as to any such person or entity, but the Tribe shall have the final say with respect to the hiring or licensing of any such person or entity.

2. Notwithstanding that the Tribe has the primary responsibility to administer and enforce the regulatory requirements of this Compact, the Tribal Gaming Agency will certify annually to the State Gaming Representative that the Tribe has met its obligations under this Compact in accordance with the instructions and form set forth in the attached Appendix.

3. The State Gaming Representative shall have the right to inspect a Gaming Facility, Class III Gaming activity, including all Gaming Machines, and all records relating to Class III Gaming of the Tribe, subject to the following conditions:

(a) with respect to public areas of a Gaming Facility, at any time without prior notice during normal Gaming Facility business hours;

(b) with respect to private areas of a Gaming Facility not accessible to the public, at any time during normal Gaming Enterprise business hours, immediately after notifying the Tribal Gaming Agency and Gaming Enterprise of his or her presence on the premises and presenting proper identification, and requesting access to the non-public areas of the Gaming Facility. The Tribe, in its sole discretion, may require an employee of the Gaming Enterprise or the Tribal Gaming Agency to accompany the State Gaming Representative at all times that the State Gaming Representative is on the premises of a Gaming Facility, but if the Tribe imposes such a requirement, the Tribe shall require such an employee of the Gaming Enterprise or the Tribal Gaming Agency to be available at all times for such purpose;

(c) with respect to inspection and copying of all management records relating to Class III Gaming, at any time without prior notice between the hours

of 9:00 a.m. and 4:00 p.m. Monday through Friday, excluding official holidays. The reasonable costs of copying will be borne by the State;

(d) whenever the State Gaming Representative, or his designee, enters the premises of the Gaming Facility for any such inspection, such Representative, or designee, shall identify himself to security or supervisory personnel of the Gaming Enterprise; and

(e) in accordance with the additional requirements set forth in the attached Appendix.

The State Gaming Representative may contract with private persons, firms or other entities for the purpose of performing certain of his functions, but the State Gaming Representative will be the single contact with the Tribe and may be relied upon as such by the Tribe.

4. a) Any information, documents or communications provided to the State Gaming Representative, his agents or contractors, or to any other official, agency or entity of the State (all of which are collectively hereinafter referred to as "the State entities") by the Tribe, the Tribal Gaming Agency or the Gaming Enterprise, or prepared from information obtained from the Tribe, the Tribal Gaming Agency or the Gaming Enterprise, or any information, documents or communications provided to the Tribe, the Tribal Gaming Agency, or the Gaming Enterprise by any State entity, or prepared from information obtained from any State entity, under the provisions of this Compact or under the provisions of the Predecessor Agreements, are confidential. Any State entity that has received any information, documents or communications from the Tribe, the Tribal Gaming Agency or the Gaming Enterprise: i) may release or disclose the same only with the prior written consent of the Tribe or pursuant to a lawful court order after timely notice of the proceeding has been given to the Tribe; ii) shall maintain all such information, documents and communications in a secure place accessible only to authorized officials and employees of the State entity that has received the same; and iii) shall adopt procedures and regulations to protect the confidentiality of the information, documents and communications provided by the Tribe, Tribal Gaming Agency or Gaming Enterprise.

b) These prohibitions shall not be construed to prohibit:

i) the furnishing of any information to a law enforcement or regulatory agency of the Federal Government;

ii) the State from making known the names of persons, firms, or corporations conducting Class III Gaming pursuant to the terms of this Compact, locations at which such activities are conducted, or the dates on which such activities are conducted;

iii) publishing the terms of this Compact;

iv) disclosing information as necessary to audit, investigate, prosecute or arbitrate violations of this Compact or other applicable laws or to defend suits against the State; and

v) complying with subpoenas or court orders issued by courts of competent jurisdiction.

c) Notwithstanding the foregoing, the Tribe agrees that:

i) the following documents and information may be released by a State entity to the public: the Tribe's gaming ordinance and regulations of the Tribal Gaming Agency; official rulings of the Tribal Gaming Agency in matters not subject to a confidentiality order imposed by the Agency; other information and documents of the Tribal Gaming Agency or the Gaming Enterprise ordinarily available to the public; quarterly Net Win figures used as the basis for computation of the Tribe's revenue sharing payment under the provisions of Section 11 of this Compact; information that exists as a result of the requirements in Section 4(B)(16); and correspondence between the Tribe or a tribal entity and a State entity, unless such correspondence is specifically labeled "Confidential;"

ii) a State entity may release to the public aggregate figures compiled by totaling comparable figures from the annual financial statements of all of the New Mexico gaming tribes; and

iii) the report of the annual audit of the Gaming Enterprise that is provided by the Tribe to the State Gaming Representative shall be available to the public to the same extent that similar information that is required to be provided to the State by non-Indian gaming entities is available to the public, pursuant to the provisions of applicable law and the policies and regulations of the Gaming Control Board, at the time the request for the report of the annual audit is made.

5. To the fullest extent allowed by State law, the Tribe shall have the right to inspect State records concerning all Class III Gaming conducted by the Tribe; the Tribe shall have the right to copy such State records, with the Tribe bearing the reasonable cost of copying.

6. The Tribe shall reimburse the State for the costs the State incurs in carrying out any functions authorized by the terms of this Compact. The Tribe and the State agree that to require the State to keep track of and account to the Tribe for all such costs would be unreasonably burdensome, and that a fair estimate of the State's costs of such activity as of January 1, 2007, is One Hundred Sixteen Thousand Dollars (\$116,000) per year, and that those costs will increase over time. The Tribe therefore agrees to pay the State the sum of One Hundred Sixteen Thousand Dollars (\$116,000) per year as reimbursement of the State's costs of regulation, which amount shall increase by five percent (5%) as of January 1 of 2012 and as of January 1 of every fifth year thereafter as long as this Compact remains in effect, such sum to be paid in

quarterly payments of one-fourth of the annual amount due each, in advance. The Tribe and the State further agree that such amount fairly reflects the State's costs of regulation.

7. In the event the State believes that the Tribe is not administering and enforcing the regulatory requirements set forth herein, it may invoke the procedures set forth in Section 7 of this Compact.

F. The Tribe shall comply with all applicable provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. §§ 5311-5314, and all reporting requirements of the Internal Revenue Service.

G. At least annually, appropriate representatives of the Tribe shall meet with one or more representatives of the Office of the Governor appointed by the Governor, one or more members of the House of Representatives appointed by the Speaker of the New Mexico House of Representatives, and one or more members of the Senate appointed by the President Pro Tempore of the New Mexico Senate, to discuss matters of mutual interest arising under the terms of this Compact and concerning Indian gaming in New Mexico. Such meeting shall be coordinated so as to involve the representatives of as many New Mexico gaming tribes as possible, and shall be conducted in the context of the government-to-government relationship between the State and the Tribe.

## **SECTION 5. Licensing Requirements.**

A. License Required. The Gaming Facility operator, but not including the Tribe, including its principals, primary management officials, and key employees, the Management Contractor and its principals, primary management officials, and key employees (if the Tribe hires a Management Contractor); any person, corporation, or other entity that has supplied or proposes to supply any gaming device to the Tribe or the Management Contractor; and any person, corporation or other entity providing gaming services within or without a Gaming Facility, shall apply for and receive a license from the Tribal Gaming Agency before participating in any way in the operation or conduct of any Class III Gaming on Indian Lands. The Tribal Gaming Agency shall comply fully with the requirements of this Section and of the Indian Gaming Regulatory Act, especially at 25 U.S.C. §§ 2710-2711, and the regulations issued thereunder at 25 C.F.R. Parts 550-559, as well as the requirements of the Tribe's gaming ordinance and any regulations issued thereunder, in processing license applications and issuing licenses.

B. License Application. Each applicant for a license shall file with the Tribal Gaming Agency a written application in the form prescribed by the Tribal Gaming Agency, along with the applicant's fingerprint card, current photograph and the fee required by the Tribal Gaming Agency.

C. Background Investigations. Upon receipt of a completed application and required fee for licensing, the Tribal Gaming Agency shall conduct or cause to be conducted a background investigation to ensure that the applicant is qualified for licensing.

D. Provision of Information to State Gaming Representative. Whenever the Tribal Gaming Agency is required by federal or tribal law or regulations to provide to the National Indian Gaming Commission ("the Commission") any information, document or notice relating to the licensing of any key employee or primary management official of the Gaming Enterprise, a copy of such information, document or notice shall also be provided to the State Gaming Representative. The State Gaming Representative shall be entitled to the same right to request additional information concerning an applicant licensee, to comment on the proposed licensing of any applicant licensee, and to supply the Tribal Gaming Agency with additional information concerning any applicant licensee, as is enjoyed by the Commission.

## **SECTION 6. Providers of Class III Gaming Equipment or Devices or Supplies.**

A. Within thirty (30) days after the effective date of this Compact, if it has not already done so, the Tribal Gaming Agency will adopt standards for any and all Class III Gaming equipment, devices or supplies to be used in any Gaming Facility, which standards shall be at least as strict as the comparable standards applicable to Class III Gaming equipment, devices or supplies within the State of Nevada. Any and all Class III Gaming equipment, devices or supplies used by the Tribe shall meet or exceed the standards thereby adopted.

B. Prior to entering into any future lease or purchase agreement for Class III Gaming equipment, devices or supplies, the Tribe shall obtain sufficient information and identification from the proposed seller or lessor and all persons holding any direct or indirect financial interest in the lessor or the lease/purchase agreement to permit the Tribe to license those persons in accordance with applicable federal and tribal law.

C. The seller, lessor, manufacturer or distributor shall provide, assemble and install all Class III Gaming equipment, devices or supplies in a manner approved and licensed by the Tribe.

## **SECTION 7. Dispute Resolution.**

A. In the event either party believes that the other party has failed to comply with or has otherwise breached any provision of this Compact, such party may invoke the following procedure:

1. The party asserting noncompliance shall serve written notice on the other party. The notice shall identify the specific Compact provision believed to have been violated and shall specify the factual and legal basis for the allegation of

noncompliance. The notice shall specifically identify the date, time and nature of the alleged noncompliance.

2. In the event an allegation by the complaining party is not resolved to the satisfaction of such party within twenty (20) days after service of the notice set forth in Paragraph A(1) of this section, the complaining party may serve upon the other party a notice to cease conduct of the particular game(s) or activities alleged by the complaining party to be in noncompliance. Upon receipt of such notice, the responding party may elect to stop the game(s) or activities specified in the notice or invoke arbitration and continue the game(s) or activities pending the results of arbitration. The responding party shall act upon one of the foregoing options within ten (10) days of receipt of notice from the complaining party, unless the parties agree to a longer period, but if the responding party takes neither action within such period the complaining party may invoke arbitration by written notice to the responding party within ten (10) days of the end of such period.

3. The arbitrators shall be attorneys who are licensed members in good standing of the State Bar of New Mexico or of the bar of another state. The State will select one arbitrator, the Tribe a second arbitrator, and the two so chosen shall select a third arbitrator. The party that served the written notice of noncompliance shall select its arbitrator within thirty (30) days after the party has invoked arbitration and the responding party shall select its arbitrator within thirty (30) days of the selection of the first arbitrator. If the third arbitrator is not chosen within thirty (30) days after the second arbitrator is selected, the third arbitrator will be chosen by the American Arbitration Association. The arbitrators thereby selected shall permit the parties to engage in reasonable discovery, and shall establish other procedures to ensure a full, fair and expeditious hearing on the matters at issue. The arbitrators shall determine, after hearing from each party, whether the arbitration proceeding or any portions thereof shall be closed to the public, but in the absence of such determination the proceedings shall be open to the public. The arbitrators shall make determinations as to each issue presented by the parties, but the arbitrators shall have no authority to determine any question as to the validity or effectiveness of this Compact or of any provision hereof.

4. All parties shall bear their own costs of arbitration and attorneys' fees.

5. The results of arbitration shall be final and binding, and shall be enforceable by an action for injunctive or mandatory injunctive relief against the State and the Tribe in any court of competent jurisdiction. For purposes of any such action, the State and the Tribe acknowledge that any action or failure to act on the part of any agent or employee of the State or the Tribe, contrary to a decision of the arbitrators in an arbitration proceeding conducted under the provisions of this section, occurring after such decision, shall be wholly unauthorized and ultra vires acts, not protected by the sovereign immunity of the State or the Tribe.

B. Nothing in Subsection 7(A) shall be construed to waive, limit or restrict any remedy that is otherwise available to either party to enforce or resolve disputes

concerning the provisions of this Compact. Nothing in this Section shall be deemed a waiver of the Tribe's sovereign immunity. Nothing in this Section shall be deemed a waiver of the State's sovereign immunity.

## **SECTION 8. Protection of Visitors.**

A. Policy Concerning Protection of Visitors. The safety and protection of visitors to a Gaming Facility is a priority of the Tribe, and it is the purpose of this Section to assure that any such persons who suffer bodily injury or property damage proximately caused by the conduct of the Gaming Enterprise have an effective remedy for obtaining fair and just compensation. To that end, in this Section, and subject to its terms, the Tribe agrees to carry insurance that covers such injury or loss, agrees to a limited waiver of its immunity from suit, and agrees to proceed either in binding arbitration proceedings or in a court of competent jurisdiction, at the visitor's election, with respect to claims for bodily injury or property damage proximately caused by the conduct of the Gaming Enterprise. For purposes of this Section, any such claim may be brought in state district court, including claims arising on tribal land, unless it is finally determined by a state or federal court that IGRA does not permit the shifting of jurisdiction over visitors' personal injury suits to state court.

B. Insurance Coverage for Claims Required. The Gaming Enterprise shall maintain in effect policies of liability insurance insuring the Tribe, its agents and employees against claims, demands or liability for bodily injury and property damages by a visitor arising from an occurrence described in Paragraph A of this Section. The policies shall provide bodily injury and property damage coverage in an amount of at least ten million dollars (\$10,000,000) per occurrence and ten million dollars (\$10,000,000) annual aggregate. The Tribe shall provide the State Gaming Representative annually a certificate of insurance showing that the Tribe, its agents and employees are insured to the required extent and in the circumstances described in this Section.

C. Limitation on Time to Bring Claim. Claims brought pursuant to the provisions of this section must be commenced by filing an action in court or a demand for arbitration within three years of the date the claim accrues.

D. Specific Waiver of Immunity and Choice of Law. The Tribe, by entering into this Compact and agreeing to the provisions of this section, waives its defense of sovereign immunity in connection with any claims for compensatory damages for bodily injury or property damage up to the amount of ten million dollars (\$10,000,000) per occurrence asserted as provided in this section. This is a limited waiver and does not waive the Tribe's immunity from suit for any other purpose. The Tribe shall ensure that a policy of insurance that it acquires to fulfill the requirements of this section shall include a provision under which the insurer agrees not to assert the defense of sovereign immunity on behalf of the insured, up to the limits of liability set forth in this Paragraph. The Tribe agrees that in any claim brought under the provisions of this Section, New Mexico law shall govern the substantive rights of the claimant, and shall be applied, as

applicable, by the forum in which the claim is heard, except that the tribal court may but shall not be required to apply New Mexico law to a claim brought by a member of the Tribe.

E. Election by Visitor. A visitor having a claim described in this section may pursue that claim in any court of competent jurisdiction, or in binding arbitration. The visitor shall make a written election that is final and binding upon the visitor.

F. Arbitration. Arbitration pursuant to an election by a visitor as provided in Subsection E of this section shall be conducted as follows:

1. the visitor shall submit a written demand for arbitration to the Gaming Enterprise, by certified mail, return receipt requested;

2. the visitor and the Gaming Enterprise shall each designate an arbitrator within thirty (30) days of receipt of the demand, and the two arbitrators shall select a third arbitrator, but in the event the two arbitrators cannot agree on the selection of the third arbitrator within thirty (30) days of their appointment, they shall apply to the American Arbitration Association to appoint the third arbitrator;

3. the arbitration panel shall permit the parties to engage in reasonable discovery, and shall establish other procedures to ensure a full, fair and expeditious hearing on the claim; and

4. the award of the arbitration panel shall be final and binding, and may be enforced in a court of competent jurisdiction.

G. Increase in Liability Limits. As of the fifth anniversary of this Compact, and at five-year intervals thereafter, the liability insurance coverage requirements set forth in Paragraph B of this Section, and the limit on the Tribe's waiver of sovereign immunity set forth in Paragraph D of this Section, shall be increased by a percentage equal to the percentage increase in the CPI-U published by the Bureau of Labor Statistics of the United States Department of Labor, for the same period, rounded to the nearest one hundred thousand dollars (\$100,000).

H. Public Health and Safety. The Tribe shall establish for its Gaming Facility health, safety and construction standards that are at least as stringent as the current editions of the National Electrical Code, the Uniform Building Code, the Uniform Mechanical Code, the Uniform Fire Code and the Uniform Plumbing Code, and any and all construction and maintenance of the Gaming Facility shall comply with such standards. Inspections shall be conducted with respect to these standards at least annually. If the State Gaming Representative requests sufficiently in advance of an annual inspection, the State Gaming Representative may be present during such inspection. The Tribe agrees to correct any deficiencies noted in such inspections within a time agreed upon between the State and Tribe. The Tribal Gaming Agency will

provide copies of such inspection reports to the State Gaming Representative, if requested to do so in writing.

## **SECTION 9. Conditions for Execution; Effective Date.**

A. The parties acknowledge that they have been engaged in litigation, captioned State of New Mexico v. Jicarilla Apache Tribe, et al., No. 00-0851 (D.N.M.) (the "Lawsuit"), that was initiated by the State in United States District Court on June 13, 2000, in which the State seeks an injunction against the Tribe's conduct of Class III gaming under the Predecessor Agreements unless the Tribe pays the State the full amount that the State claims it is owed under the revenue sharing provision of the Predecessor Agreements. The Tribe disputes the validity of such provision of the Predecessor Agreements, but the parties have agreed to settle the dispute addressed in the Lawsuit, and have agreed to enter into this new Compact.

B. This Compact may not be executed by the Governor of the State unless and until it has been executed by the appropriate representative of the Tribe, and until the State Attorney General has certified to the Governor in writing that the Tribe and the State have negotiated a complete settlement of the issues in dispute in the Lawsuit (except that such settlement shall be contingent upon this Compact going into effect under the provisions of IGRA), and that the Tribe has either paid in full the amount agreed to by the terms of the settlement, into the registry of the federal court, or has entered into a binding and fully enforceable agreement for the payment of such amount that is acceptable to the Attorney General. Upon receiving such certification, the Governor shall execute the Compact and forward it to the Secretary of the Interior for approval. Upon the Secretary's affirmative approval of this Compact, as set forth in Paragraph C of this Section, such sum, plus interest, shall be immediately paid into the State General Fund. In the event the Secretary fails to affirmatively approve this Compact, such sum, plus interest, shall be immediately repaid to the Tribe.

C. This Compact shall take effect upon publication of notice in the Federal Register of its approval by the Secretary of the Interior, or of the Secretary's failure to act on it within 45

days from the date on which it was submitted to him; provided, however, that notwithstanding its taking effect, the parties expressly agree that the provisions of this Compact shall remain suspended, and shall confer no rights or obligations on either party, and that the terms and provisions of the Predecessor Agreements shall remain fully in force and effect, subject to the Tribe's and the State's claims in the Lawsuit, unless and until the Secretary shall have affirmatively approved this Compact, pursuant to 25 U.S.C. § 2710(d)(8)(A).

D. Upon the publication of notice of the Secretary's affirmative approval of this Compact in the Federal Register, the Predecessor Agreements shall be and become null and void, and of no further effect, and any and all actions as between the Tribe and the State arising out of the Predecessor Agreements, including dispute resolution

proceedings, shall thereafter be dismissed with prejudice with no relief to either party, and the terms and provisions of this Compact shall go into full force and effect, fully supplanting and replacing the Predecessor Agreements.

## **SECTION 10. Criminal Jurisdiction.**

C. The Tribe and the State acknowledge that under the provisions of § 23 of the IGRA, especially that portion codified at 18 U.S.C. § 1166(d), jurisdiction to prosecute violations of State gambling laws made applicable by that section to Indian country is vested exclusively within the United States, unless the Tribe and the State agree in a compact entered into pursuant to the IGRA to transfer such jurisdiction to the State.

D. The Tribe and the State hereby agree that, in the event of any violation of any State gambling law on Indian Lands or any other crime against the Gaming Enterprise or any employee thereof or that occurs on the premises of the Tribe's Gaming Facility, that is committed by any person who is not a member of the Tribe, the State shall have and may exercise jurisdiction, concurrent with that of the United States, to prosecute such person, under its laws and in its courts.

C. Immediately upon becoming aware of any such suspected crime by a nonmember of the Tribe the Gaming Enterprise or the Tribal Gaming Agency shall notify the state attorney general and the district attorney for the district in which the alleged crime occurred, supplying all particulars available to the tribal entity at the time. The Tribe agrees that its law enforcement and gaming agencies shall perform such additional investigation or take such other steps in furtherance of the investigation and prosecution of the violation as the district attorney may reasonably request, and otherwise cooperate fully with the district attorney and any state law enforcement agencies with respect to the matter, but once notice of a suspected violation has been given to the district attorney, the matter shall be deemed to be under the jurisdiction of the State; provided, however, that in the event of emergency circumstances involving a possible violation, the Tribe and its constituent agencies shall have the discretion to act as they see fit, and to call upon such other agencies or entities as they deem reasonable or necessary, in order to protect against any immediate threat to lives or property. The State may, in its discretion, refer the matter to federal authorities, but it shall notify the Tribal Gaming Agency upon doing so.

D. The State agrees that no less frequently than annually it will provide the Tribal Gaming Agency with a written report of the status and disposition of each matter referred to it under the provisions of this section since the last report or that was still pending at the time of the last report. In the event the district attorney to whom a matter is referred under the provisions of this section decides not to prosecute such matter, the district attorney shall promptly notify the Tribal Gaming Agency of such decision in writing. The Tribal Gaming Agency may in that event ask the attorney general of the state to pursue the matter.

E. The district attorney for a district in which the Tribe conducts Class III Gaming may decline to accept referrals of cases under the provisions of this section unless and until the Tribe has entered into a Memorandum of Understanding with the office of the district attorney to which Memorandum of Understanding the United States Attorney for the District of New Mexico may also be a party addressing such matters as the specific procedures by which cases are to be referred, participation of the Tribal Gaming Agency and tribal law enforcement personnel in the investigation and prosecution of any such case, payments by the Tribe to the office of the district attorney to defray the costs of handling cases referred under the provisions of this section, and related matters.

## **SECTION 11. Revenue Sharing.**

A. Consideration. The Tribe shall pay to the State a portion of its Class III Gaming revenues identified in and under procedures of this Section, in return for which the State agrees that the Tribe has the exclusive right within the State to conduct all types of Class III Gaming described in this Compact, with the sole exception of the use of Gaming Machines, which the State may permit on a limited basis for racetracks and for veterans' and fraternal organizations as such organizations are described in 1997 Laws ch. 190, §5(FF).

B. Revenue to State. The parties agree that, after the effective date hereof, the Tribe shall make the quarterly payments provided for in Paragraph C of this Section. Each payment shall be made to the State Treasurer for deposit into the General Fund of the State.

### **C. Calculation of Payment Amounts.**

1. As used in this Compact, "Net Win" means the total amount wagered in Class III Gaming at a Gaming Facility, on all Gaming Machines less:

(a) the amount paid out in prizes to winning patrons, including the cost to the Tribe of noncash prizes, won on Gaming Machines. The phrase "won on Gaming Machines" means the patron has made a monetary wager, and as a result of that wager, has won a prize of any value. Any rewards, awards or prizes, in any form, received by or awarded to a patron under any form of a players' club program (however denominated) or as a result of patron-related activities, are not deductible. The value of any complimentary given to patrons, in any form, are not deductible;

(b) the amount paid to the State by the Tribe under the provisions of Section 4(E)(6) of this Compact; and

(c) the sum of two hundred seventy-five thousand dollars (\$275,000) per year as an amount representing tribal regulatory costs, which amount shall increase by three percent (3%) each year beginning on the first day of January occurring after the Compact has been in effect for at least twelve months.

2. The Tribe shall pay the State a percentage of its Net Win, determined in accordance with this chart:

Annual Net Win (July 1 - June 30)	2015 - 2030	2007 - 2015	2030 - 2037
Under \$15 million:	3% of the first \$5 million, and 9.25%	3% of the first \$5 million, and 9.50% on the rest	3% of the first million, and 10.25% on the rest
\$15 - \$50 million:	9.25%	9.50%	10.25%
More than \$50 million:	9.75%	10.00%	10.75%

3. Payments due pursuant to these terms shall be paid quarterly, no later than twenty-five (25) days after the last day of each calendar quarter, and shall be based upon the Net Win during the preceding quarter. The Tribe shall ascertain the applicable revenue sharing percentage in Section 11(C)(2) above and shall base its quarterly payments on the following factors: (1) the prior year's total "Net Win" amount and the applicable revenue sharing percentage; and (2) its best good faith estimate of its annual "Net Win" for the July 1 June 30 period. In the event its total "Net Win" for any such period varies from such estimate, such that the amount due the State for the first three quarters as set forth in Section 11(C)(2), above, is different from the amount paid, the payment due for the fourth quarter shall include any additional amounts due for the first three quarters, or shall reflect a credit for any overpayment. Any payment or any portion thereof that is not made within ten (10) days of the due date shall accrue interest at the rate of ten percent (10%) per annum, from the original due date until paid. The Tribe shall accompany any payment to the State with a detailed breakdown of the particular obligation to which such payment applies, and the basis for the calculation of such payment on a form provided by the State Gaming Representative.

4. For purposes of calculating "Net Win," the Tribe shall combine the total amount wagered on all Class III Gaming Machines at all of its gaming locations on its Indian [ands].

D. Limitations.

1. The Tribe's obligation to make the payments provided for in Paragraphs B and C of this Section shall apply and continue only so long as this Compact remains in effect; and provided that that obligation shall terminate altogether in the event the State:

a) passes, amends, or repeals any law, or takes any other action, that would directly or indirectly attempt to restrict, or has the effect of restricting, the scope or extent of Indian gaming;

b) licenses, permits or otherwise allows any person or entity other than six licensed horse racetracks and veterans and fraternal organizations as described in 1997 [aws, ch. 190, §5(FF) to operate Gaming Machines;

c) permits any licensed horse racetrack to operate a larger number of Gaming Machines, or to operate any Gaming Machines for longer hours, than is set forth in subsection (D)(2)(e), below, or to operate any Gaming Machines outside of its licensed premises, or to operate any Table Game;

d) licenses, permits or otherwise allows any non-Indian person or entity to engage in any other form of Class III gaming other than a state-sponsored lottery, parimutuel betting on horse racing and bicycle racing, operation of Gaming Machines, and limited fundraising by non-profit organizations, as set forth in subsection (D)(2), below.

2. The parties agree that the State's allowance of the following forms of Class III Gaming, subject to the limitations expressly set forth herein, shall not be considered an expansion of nontribal Class III gaming for purposes of this agreement, and shall have no effect on the Tribe's obligation to make the payments provided for in Paragraphs B and C of this Section:

(a) the operation of a State lottery;

(b) the operation of Gaming Machines by any fraternal or veterans organization as described in 1997 [aws ch. 190, § 5(FF) but only for the benefit of such organization's members;

(c) limited fundraising activities conducted by nonprofit tax exempt organizations;

(d) the conduct by licensed horse racetracks and bicycle tracks of parimutuel betting on races at such tracks, and on simulcast races at other tracks elsewhere in the country; and

(e) the operation by a licensed horse racetrack of Gaming Machines on days on which live or simulcast horse racing occurs, provided that such operation is limited to no more than eighteen (18) hours in any one day, and to no more

than a total of one hundred twelve (112) hours in any calendar week, and provided further that no licensed horse racetrack shall have more than six hundred (600) licensed Gaming Machines, nor be authorized to operate more than seven hundred and fifty (750) Gaming Machines.

3. The limitations set forth in this Section shall not prohibit a horse racetrack from relocating, selling, transferring or assigning its operations in accordance with applicable procedures and authorizations set forth in New Mexico law.

4. Prior to granting the approval of an application for a racing license for a horse racetrack other than the five horse racetracks holding such licenses as of January 1, 2007, or the approval of an application by a licensed horse racetrack to move its racing and gaming facilities to a new location after January 1, 2007, the State Racing Commission shall adopt, put into effect, and shall have substantially complied with regulations requiring the Commission to solicit and consider the Tribe's views on the application.

E. Third-Party Beneficiaries. The provisions of this Section are not intended to create any third-party beneficiaries and are entered into solely for the benefit of the Tribe and the State.

## **SECTION 12. Duration; Termination for Non-Payment.**

A. This Compact shall have a term commencing on the date on which it goes into full force and effect as provided in Section 9, and ending at midnight on June 30, 2037.

B. Notwithstanding the provisions of Paragraph A of this Section, if the Tribe fails to comply with any of its payment obligations to the State under Sections 4(E)(5), 9(B) or 11 of this Compact, and persists in such failure for a period of thirty (30) days after receipt, by certified mail, of a Notice of Noncompliance sent by the State Gaming Representative, which Notice shall specify the amount due and the provision of the Compact under which such payment is required, this Compact, and the conduct of Class III Gaming by the Tribe hereunder, shall terminate automatically as of the end of the thirty (30)-day period, unless within such thirty (30)-day period the Tribe shall have invoked arbitration on a matter of fact as provided in Section 7(A)(2) of this Compact, and simultaneously shall have placed into escrow, in an institution that is unaffiliated with either the Tribe or the State, a sum of money equal to the amount claimed due by the State, with instructions to the escrow agent specifying that such sum shall not be released except by direction of the arbitration panel or pursuant to a settlement agreement of the parties. The Tribe shall give written notice to the State of the deposit of the amount in dispute into escrow, and of the escrow instructions. At the conclusion of the arbitration proceeding, or, in the event the parties reach a settlement, immediately after execution of the settlement agreement, the escrow agent shall disburse the sum deposited by the Tribe in accordance with the settlement agreement or arbitration award, as applicable. In the event the Tribe invokes arbitration, this Compact and the

Tribe's right to conduct Class III gaming shall terminate automatically at the end of the thirtieth (30th) day after the entry of a final, nonappealable decision by the arbitrators or by a court having jurisdiction of the dispute, unless the full amount determined by the arbitrators or by such court to be due the State, if any, has been paid by such date. The Tribe shall not be entitled to avoid any pre-existing contractual obligations accruing to third parties under this Compact solely by virtue of the termination of the Compact.

### **SECTION 13. Notice to Parties.**

Unless otherwise indicated, all notices, payments, requests, reports, information or demand that any party hereto may desire or may be required to give to the other party hereto, shall be in writing and shall be personally delivered or sent by first-class mail sent to the other party at the address provided in writing by the other party. Every notice, payment, request, report, information or demand so given shall be deemed effective upon receipt or, if mailed, upon receipt or the expiration of the third day following the day of mailing, whichever occurs first, except that any notice of change of address shall be effective only upon receipt by the party to whom said notice is addressed.

### **SECTION 14. Entire Agreement.**

This Compact is the entire agreement between the parties and supersedes all prior agreements, whether written or oral, with respect to the subject matter hereof. Neither this Compact nor any provision herein may be changed, waived, discharged or terminated orally, but only by an instrument, in writing, signed by the Tribe and the State and approved by the Secretary of the Interior. This Compact shall not be amended without the express approval of the Tribe, the Governor of the State and the State Legislature, as provided in the Compact Negotiation Act.

### **SECTION 15. Filing of Compact with State Records Center.**

Upon the effective date of this Compact, a copy shall be filed by the Governor with the New Mexico Records Center. Any subsequent amendment or modification of this Compact shall be filed with the New Mexico Records Center.

### **SECTION 16. Counterparts.**

This Compact may be executed by the parties in any number of separate counterparts with the same effect as if the signatures were upon the same instrument. All such counterparts shall together constitute one and the same document.

### **SECTION 17. Severability.**

Should any provision of this Compact be found to be invalid or unenforceable by any court, such determination shall have no effect upon the validity or enforceability of

any other portion of this Compact, and all such other portions shall continue in full force and effect, except that this provision shall not apply to Sections 4, 5, 6, 9 and 11 hereof, or to any portions thereof, which the parties agree are nonseverable.

Executed as Amended this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

By: \_\_\_\_\_

[Authorized Official]

STATE OF NEW MEXICO

By: \_\_\_\_\_

Governor

## **APPENDIX to the 2007 Compact Amendments**

WHEREAS, ("Tribe"), a federally recognized Indian tribe, operates a Gaming Enterprise on its land located within the exterior boundaries of the Tribe's reservation;

WHEREAS, the Tribe conducts Gaming activities pursuant to a compact entered into between the Tribe and the State of New Mexico ("State") and approved by the United States Department of Interior ("Compact");

WHEREAS, the Gaming Commission is the Tribal Gaming Agency ("TGA") identified to the State Gaming Representative ("SGR") as the agency responsible for actions of the Tribe set out in the Compact and is the single contact with the State and may be relied upon as such by the State;

WHEREAS, the SGR is the person designated by the New Mexico Gaming Control Board ("NMGCB") pursuant to the Gaming Control Act [60-2E-1 to 60-2E-60 NMSA 1978] who shall be responsible for the actions of the State set out in the Compact;

WHEREAS, the Tribes and the State have engaged in negotiations leading to amendments to the 2001 Compact to be submitted for approval by the 2007 legislature.

WHEREAS, the parties wish to submit for approval certain details concerning certain aspects of their agreement to be made an integral part of the 2007 Compact, but to be designated as the Appendix to the Compact;

NOW, THEREFORE, the State and the Tribe agree to the following terms and conditions:

1. Section 2 (F) and Section 2(R) of the Compact provide definitions for gaming machines and table games. The definition of a gaming machine is intended to encompass the traditional slot machine. The definition of a table game is intended to encompass traditional games that use cards such as poker, Pai-gow and blackjack, wheel games such as roulette and the Big Wheel, and dice games such as craps.

However, technology is constantly changing in the area of casino gaming and the once clear line between slot machines and table games is becoming less clear. It is the intention of the parties to accommodate and clarify revenue sharing requirements of new games that blur the line between traditional games. Generally, games that are predominantly mechanical, electromechanical or electronic are subject to revenue sharing and games that rely significantly on a casino attendant (a live person) to play the game are not subject to that obligation. Casino attendant involvement ranges from minimal interaction such as initiating the game and taking bets and/or making payout to substantial interaction such as participating in the game as a player (e.g. blackjack) or being involved in nearly every aspect of the game (e.g. craps). The greater the involvement of the casino attendant, the more likely the game is a table game. For example, a casino attendant may have some minimal involvement in an electromechanical slot machine game, such as making a pay-out, but that is not a significant enough involvement to exclude it from revenue sharing obligations. Similarly, although roulette has a mechanical aspect, it is not significant enough to make it subject to revenue sharing obligations.

Recognizing the dynamic nature of gaming technology, the parties shall attempt to agree on whether new mechanical, electromechanical or electronic games that utilize traditional components of table games, e.g. cards, wheels or dice, are subject to revenue sharing on a case by case basis. In the event the parties are unable to agree, the matter shall be submitted to arbitration pursuant to section 7.

2. Section 4 (B)(13) of the Compact provides that the Tribe shall make available to the SGR, unaltered data from all gaming machines. The information shall be downloadable from the Tribe's "slot account system." The parties agree that access to such data shall be made available as follows:

A. The SGR or designee shall have access to the gaming machine accounting data from the production side of the Tribe's "slot accounting system." The gaming machine accounting data consists of the raw, unaltered, data used by the Tribe to calculate "Net Win." This information shall not be in an altered, processed or manipulated format. This information shall be accessible by the SGR, as the SGR shall from time to time determine is required, on a per machine and/or aggregate basis based on a full game day cycle. The purpose of this information is to allow the SGR to verify the Tribe's "Net Win" calculation. A system for electronic access to the Tribe's gaming machine accounting data shall be constructed and installed at the State's cost.

B. The security codes for log-in by the SGR or designee shall be defined collectively by the TGA , the manufacturer of the "slot accounting system", and the SGR.

C. Access to the gaming machine accounting data shall be limited to the SGR or designee solely for purposes authorized in the Compact.

D. Any part of the gaming machine accounting data obtained herein is designated as confidential under the Compact and shall not be made available for public inspection by the SGR.

E. The information referred to herein shall be transferred over secure telecommunications lines.

F. The TGA shall ensure that the systems and connections necessary to provide access to the gaming machine accounting data are in place and operating as required under the Compact.

G. The TGA shall ensure that the SGR or designee is notified promptly either by electronic mail or telephone of any technical problems related to the generation, transfer or access of the gaming machine accounting data.

H. The TGA shall ensure that the SGR has access to the gaming machine accounting data on a periodic basis as determined from time to time by the SGR, but in no event shall access be more often than once in a 24 hour period and the SGR shall strive to access such information in a reasonable manner and only to the extent necessary to meet his obligations under the Compact.

I. The TGA shall at all times designate a person and an alternate as the daily contact person of the SGR or designee.

3. Section 4 (E)(2) provides that the TGA will certify annually to the SGR that the TGA has met its obligations under this compact.

A. The TGA shall annually certify to the SGR that the Tribe is in compliance with the provisions of the Compact by completing and submitting a Compliance Report.

B. The Compliance Report is a checklist of the applicable sections of the Compact outlined in form A provided at the end of this Appendix. The Compliance Report shall serve as an annual attestation to certify that the Tribe, TGA and Tribal Gaming Enterprise have met the obligations under the Compact.

C. The TGA shall complete and submit to the SGR its Compliance Report within thirty days of the end of the Tribe's fiscal year.

D. The TGA shall rely upon its records in preparing the Compliance Report. As evidence that the elements or requirements of the Compact have been met, the TGA shall conduct a comprehensive review of their gaming operations, which may include sample testing. The TGA shall determine the sample size to be used and will provide the methodology of the chosen sample size to the SGR. The TGA shall maintain all records relied upon in preparing the Compliance Report. The records shall be made available for review by the SGR or agent as requested.

E. The TGA shall attach a written explanation of the course of action taken to remedy or explain any portions of the audit checklist that are listed as non-compliant or partially compliant.

F. The SGR reserves the right to review the audit or compliance review and request additional documentation if necessary.

G. The SGR reserves the right of inspection pursuant to section 4(E)(3) of the 2007 Compact.

4. Section 4 (E)(3) of the Compact provides authorization for the SGR to inspect a Gaming Facility, Class III Gaming activity, individual gaming machines and all records relating to Class III Gaming of the Tribe. The parties agree that the protocol for inspection of gaming machines shall include the following:

A. The SGR shall have access to inspect individual gaming machines upon the terms and conditions set forth in Section 4 (E) (3) of the 2007 Compact.

B. The SGR recognizes that the Tribal gaming enterprise is a business and will take reasonable steps to not interfere with the normal conduct of gaming business.

C. The SGR recognizes that the TGA has primary responsibility to administer and enforce the regulatory requirements of the compact and does so through internal controls, direct control of the gaming media and the security and access of the gaming media in a gaming machine.

D. The TGA shall be present at any inspection, upon having been given notice as set out in section 4 (E) (3) (d), and testing of the gaming media shall be conducted by the TGA representative and verified by the SGR.

E. The SGR's inspection of individual gaming machines shall be limited to purposes authorized by the Compact.

## **OFFICIAL ROSTER OF THE STATE OF NEW MEXICO**

### **UNITED STATES SENATORS**

Jeff Bingaman, Democrat, Silver City  
Pete V. Domenici, Republican, Albuquerque

## **UNITED STATES REPRESENTATIVES**

Heather Wilson, Republican, 1st Congressional District - Albuquerque  
Steve Pearce, Republican, 2nd Congressional District - Picacho  
Tom Udall, Democrat, 3rd Congressional District - Santa Fe

## **STATE OFFICIALS**

Governor	Bill Richardson, Democrat	Governor
	Diane D. Denish, Democrat	Lieutenant
Public Lands	Mary Herrera, Democrat	Secretary of State
	Hector H. Balderas, Democrat	State Auditor
	James B. Lewis, Democrat	State Treasurer
	Gary K. King, Democrat	Attorney General
	Patrick H. Lyons, Republican	Commissioner of
Commissioner, District 1	Jason A. Marks, Democrat	Public Regulation
Commissioner, District 2	David W. King, Republican	Public Regulation
Commissioner, District 3	Ben R. Lujan, Democrat	Public Regulation
Commissioner, District 4	Carol K. Sloan, Democrat	Public Regulation
Commissioner, District 5	Sandy R. Jones, Democrat	Public Regulation

## **JUSTICES OF THE SUPREME COURT**

Edward L. Chavez, Chief Justice  
Pamela B. Minzner  
Patricio M. Serna  
Petra Jimenez Maes  
Richard C. Bosson

## **JUDGES OF THE COURT OF APPEALS**

James J. Wechsler, Chief Judge  
 A. Joseph Alarid  
 Lynn Pickard  
 Michael D. Bustamante  
 Jonathan B. Sutin  
 Cynthia A. Fry  
 Celia Foy Castillo  
 Ira Robinson  
 Roderick T. Kennedy  
 Michael E. Vigil

**DISTRICT COURTS**

**DISTRICT JUDGES**

**FIRST JUDICIAL DISTRICT**

**Santa Fe, Los Alamos & Rio Arriba Counties**

	Division	I	Barbara J. Vigil	Santa Fe
	Division	II	James A. Hall	Santa Fe
Fe	Division	III	Raymond Z. Ortiz	Santa Fe
	Division	IV	Michael Vigil	Santa Fe
	Division	V	Tim Garcia	Santa Fe
	Division	VI	Stephen Pfeffer	Santa Fe
	Division	VII	Daniel Sanchez	Santa Fe

**SECOND JUDICIAL DISTRICT**

**Bernalillo County**

	Division	I	Marie A. Baca	
Albuquerque	Division	II	Stan Whitaker	
Albuquerque	Division	III	M. Monica Zamora	Albuquerque
	Division	IV	Linda M. Vanzi	Albuquerque
	Division	V	Ted C. Baca	Albuquerque
	Division	VI	Neil C. Candelaria	Albuquerque
	Division	VII	John J. Romero, Jr.	Albuquerque
	Division	VIII	Ross C. Sanchez	Albuquerque
	Division	IX	Mark A. Macaron	Albuquerque
Albuquerque	Division	X	Theresa Baca	

	Division	XI	Ernest J. Romero	Albuquerque
	Division	XII	Clay Campbell	Albuquerque
	Division	XIII	Valerie A. Huling	Albuquerque
	Division	XIV	J. Michael Kavanaugh	
Albuquerque				
	Division	XV	Richard J. Knowles	Albuquerque
	Division	XVI	Carl Butkus	Albuquerque
	Division	XVII	Nan G. Nash	Albuquerque
	Division	XVIII	Denise Barela-Shepherd	Albuquerque
	Division	XIX	Albert S. "Pat" Murdoch	Albuquerque
	Division	XX	William F. Lang	Albuquerque
	Division	XXI	Angela A. Jewell	Albuquerque
	Division	XXII	Deborah Davis Walker	Albuquerque
	Division	XXIII	Geraldine E. Rivera	Albuquerque
	Division	XXIV	Kenneth H. Martinez	
Albuquerque				

**THIRD JUDICIAL DISTRICT**  
**Doña Ana County**

	Division	I	Robert E. Robles	Las Cruces
	Division	II	Stephen Bridgforth	Las Cruces
	Division	III	Mike Murphy	Las Cruces
	Division	IV	Jerald A. Valentine	Las Cruces
	Division	V	Lisa C. Schultz	Las Cruces
	Division	VI	Jim T. Martin	Las Cruces
	Division	VII	Douglas R. Driggers	Las
Cruces				
	Division	VIII	Fernando R. Macias	Las
Cruces				

**FOURTH JUDICIAL DISTRICT**  
**Guadalupe, Mora & San Miguel Counties**

	Division	I	Eugenio S. Mathis	Las Vegas
	Division	II	Abigail Aragon	Las Vegas

**FIFTH JUDICIAL DISTRICT**  
**Lea, Eddy & Chaves Counties**

	Division	I	Jay W. Forbes	
Carlsbad				
	Division	II	Freddie J. Romero	Roswell

	Division	III	William A. McBee	Lovington
	Division	IV	Don Maddox	Lovington
	Division	V	Jane Schuler Gray	Carlsbad
	Division	VI	Ralph D. Shamus	Roswell
	Division	VII	Gary L. Clingman	Lovington
	Division	VIII	Charles C. Currier, III	
Roswell				
	Division	IX	Thomas A. Rutledge	
Carlsbad				
	Division	X	Steven L. Bell	
Roswell				

**SIXTH JUDICIAL DISTRICT**  
**Grant, Hidalgo & Luna Counties**

	Division	I	Henry R. Quintero	Silver City
	Division	II	Gary M. Jeffreys	Deming
	Division	III	J. C. Robinson	Silver
City				

**SEVENTH JUDICIAL DISTRICT**  
**Catron, Sierra, Socorro & Torrance Counties**

	Division	I	Edmund H. Kase, III	Socorro
	Division	II	Matthew G. Reynolds	
Socorro				
	Division	III	Kevin R. Sweaza	Socorro

**EIGHTH JUDICIAL DISTRICT**  
**Colfax, Union & Taos Counties**

	Division	I	John M. Paternoster	Taos
	Division	II	Sam B. Sanchez	Raton

**NINTH JUDICIAL DISTRICT**  
**Curry & Roosevelt Counties**

	Division	I	Stephen K. Quinn	Clovis
	Division	II	Joe Parker	Clovis
	Division	III	Ted Hartley	Clovis,
Portales				
	Division	IV	Robert S. Orlik	Clovis

Portales	Division	V	David P. Reeb, Jr.	Clovis,
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**TENTH JUDICIAL DISTRICT  
Quay, DeBaca, & Harding Counties**

	Division	I	Ricky D. Purcell	Tucumcari
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**ELEVENTH JUDICIAL DISTRICT  
McKinley & San Juan Counties**

	Division	I	William C. Birdsall	Aztec
	Division	II	Louis DePauli, Jr.	Gallup
	Division	III	Sandra A. Price	Aztec
	Division	IV	John Arthur Dean, Jr.	
Farmington	Division	V	Grant L. Foutz	Gallup
	Division	VI	Thomas J. Hynes	Aztec
	Division	VII	Robert A. Aragon	Gallup
	Division	VIII	Karen L. Townsend	Aztec

**TWELFTH JUDICIAL DISTRICT  
Lincoln & Otero Counties**

	Division	I	Jerry H. Ritter, Jr.	Alamogordo
	Division	II	James Waylon Counts	
Alamogordo	Division	III	Karen L. Parsons	Carrizozo
	Division	IV	Frank K. Wilson	Alamogordo

**THIRTEENTH JUDICIAL DISTRICT  
Cibola, Sandoval & Valencia Counties**

Lunas	Division	I	John W. Pope	Los
	Division	II	George P. Eichwald	Bernalillo
	Division	III	William "Bill" Sanchez	Los Lunas
	Division	IV	Camille E. Olguin	Grants
	Division	V	Louis P. McDonald	Bernalillo
	Division	VI	Violet C. Otero	Valencia
Sandoval	Division	VII	John F. Davis	

## DISTRICT ATTORNEYS

Alamos	First Judicial District	Henry R. Valdez	Santa Fe, Rio Arriba & Los Bernalillo
	Second Judicial District	Kari E. Brandenburg	Doña Ana
	Third Judicial District	Susana Martinez	San Miguel, Guadalupe &
Mora	Fourth Judicial District	Richard D. Flores	
	Fifth Judicial District	Floyd "Terry" Haake, Jr.	Chaves, Eddy & Lea
	Sixth Judicial District	Mary Lynne Newell	Grant, Luna &
Hidalgo			
	Seventh Judicial District	Clint Wellborn	Catron, Sierra, Socorro &
Torrance			
	Eighth Judicial District	Donald A. Gallegos	Taos, Colfax & Union
	Ninth Judicial District	Matthew E. Chandler	Curry &
Roosevelt			
	Tenth Judicial District	Ronald W. Reeves	Quay, Harding &
DeBaca			
	Eleventh Judicial District	Lyndy D. Bennett	Division 1: San Juan
		Karl R. Gillson	Division 2: McKinley
	Twelfth Judicial District	Scott D. Key	Otero & Lincoln
	Thirteenth Judicial District	Lemuel L. Martinez	Sandoval, Valencia &
Cibola			

## STATE SENATORS SERVING IN THE FORTY-EIGHTH LEGISLATURE STATE OF NEW MEXICO FIRST SESSION CONVENED JANUARY 16, 2007

District City	County	Name
1 Farmington	San Juan	William E. Sharer
2 Aztec	San Juan	Steven P. Neville
3 Tohatchi	McKinley & San Juan	John Pinto
4 Gallup	Cibola & McKinley	Lidio G. Rainaldi
5 Española	Los Alamos, Rio Arriba & Santa Fe	Richard C. Martinez
6	Los Alamos, Rio Arriba, Santa Fe & Taos	Carlos R. Cisneros

Jr.	7	Questa Colfax, Curry, Harding, Quay, San Miguel, Clovis	Clinton D. Harden,
	8	Taos & Union Guadalupe, Mora, San Miguel, Santa Fe Las Vegas	Pete Campos
	9	& Torrance Sandoval	Steve Komadina
	10	Corrales Bernalillo & Sandoval Albuquerque	John C. Ryan
	11	Bernalillo	Linda M. Lopez
	12	Albuquerque Bernalillo	Gerald Ortiz y Pino
	13	Albuquerque Bernalillo	Dede Feldman
	14	Albuquerque Bernalillo & Valencia	James G. Taylor
	15	Albuquerque Bernalillo	H. Diane Snyder
	16	Albuquerque Bernalillo	Cisco McSorley
	17	Albuquerque Bernalillo	Shannon Robinson
	18	Albuquerque Bernalillo	Mark Boitano
	19	Bernalillo, Sandoval, Santa Fe & Torrance Sandia Park	Sue Wilson Beffort
	20	Albuquerque Bernalillo	William H. Payne
	21	Albuquerque Bernalillo & Sandoval	Kent L. Cravens
	22	Crownpoint Bernalillo, Cibola, McKinley, Rio Arriba & Sandoval	Leonard Tsosie
	23	Albuquerque Bernalillo & Sandoval	Joseph J. Carraro
	24	Santa Fe	Nancy Rodriguez
	25	Santa Fe	John T. L. Grubestic
	26	Albuquerque Bernalillo	Bernadette M. Sanchez
	27	Portales Chaves, Curry, DeBaca & Roosevelt	Stuart Ingle

28	Catron, Grant & Socorro	Ben D. Altamirano
Silver City		
29	Valencia	Michael S. Sanchez
Belen		
30	Cibola, Socorro & Valencia	Joseph A. Fidel
Grants		
31	Doña Ana	Cynthia Nava
Las Cruces		
32	Chaves, Eddy, Lincoln & Otero	Timothy Z. Jennings
Roswell		
33	Chaves & Lincoln	Rod Adair
Roswell		
34	Eddy & Otero	Vernon D. Asbill
Carlsbad		
35	Hidalgo, Luna & Sierra	John Arthur Smith
Deming		
36	Doña Ana	Mary Jane M. Garcia
Doña Ana		
37	Doña Ana & Sierra	Leonard Lee Rawson
Las Cruces		
38	Doña Ana	Mary Kay Papen
Las Cruces		
39	Los Alamos, Mora, Sandoval, San Miguel, San Jose	Phil A. Griego
	Santa Fe & Taos	
40	Doña Ana & Otero	Dianna J. Duran
Tularosa		
41	Eddy & Lea	Carroll H. Leavell
Jal		
42	Chaves, Curry, Eddy, Lea & Roosevelt	Gay G. Kernan
Hobbs		

**STATE REPRESENTATIVES SERVING IN THE FORTY-EIGHTH  
LEGISLATURE  
STATE OF NEW MEXICO  
FIRST SESSION  
CONVENED JANUARY 16, 2007**

<b>District City</b>	<b>County</b>	<b>Name</b>
1 Farmington	San Juan	Thomas C. Taylor
2 Farmington	San Juan	James R.J. Strickler

3	San Juan	Paul C. Bandy
Aztec		
4	San Juan	Ray Begaye
Shiprock		
5	McKinley & San Juan	Irvin Harrison
Gallup		
6	Cibola & McKinley	George J. Hanosh
Grants		
7	Valencia	Andrew J. Barreras
Tome		
8	Valencia	Elias Barela
Belen		
9	McKinley & San Juan	Patricia A.
Lundstrom	Gallup	
10	Bernalillo & Valencia	Henry "Kiki"
Saavedra	Albuquerque	
11	Bernalillo	Rick Miera
Albuquerque		
12	Bernalillo	Ernest H. Chavez
Albuquerque		
13	Bernalillo	Daniel P. Silva
Albuquerque		
14	Bernalillo	Miguel P. Garcia
Albuquerque		
15	Bernalillo	Teresa A. Zanetti
Albuquerque		
16	Bernalillo	Antonio "Moe" Maestas
Albuquerque		
17	Bernalillo	Edward C. Sandoval
Albuquerque		
18	Bernalillo	Gail Chasey
Albuquerque		
19	Bernalillo	Sheryl Williams Stapleton
Albuquerque		
20	Bernalillo	Richard J. Berry
Albuquerque		
21	Bernalillo	Mimi Stewart
Albuquerque		
22	Bernalillo, Sandoval & Santa Fe	Kathy A. McCoy
Cedar Crest		
23	Bernalillo & Sandoval	Eric A. Youngberg
Albuquerque		
24	Bernalillo	Janice E. Arnold-Jones
Albuquerque		
25	Bernalillo	Danice R. Picraux
Albuquerque		

26	Bernalillo	Al Park
	Albuquerque	
27	Bernalillo	Lorenzo A. Larrañaga
	Albuquerque	
28	Bernalillo	Jimmie C. Hall
	Albuquerque	
29	Bernalillo	Thomas A. Anderson
	Albuquerque	
30	Bernalillo	Justine Fox-Young
	Albuquerque	
31	Bernalillo	William "Bill" R. Rehm
	Albuquerque	
32	Luna	Dona G. Irwin
	Deming	
33	Doña Ana	Joni Marie Gutierrez
	Mesilla	
34	Doña Ana	Mary Helen Garcia
	Las Cruces	
35	Doña Ana	Antonio Lujan
	Las Cruces	
36	Doña Ana	Andy Nuñez
	Hatch	
37	Doña Ana	Jeff Steinborn
	Las Cruces	
38	Grant, Hidalgo & Sierra	Dianne Miller Hamilton
	Silver City	
39	Grant & Hidalgo	Manuel G. Herrera
	Bayard	
40	Mora, Rio Arriba, San Miguel, Santa Fe	Nick L. Salazar
	Ohkay Owingeh	
	& Taos	
41	Rio Arriba, Sandoval & Taos	Debbie A. Rodella
	Ohkay Owingeh	
42	Taos	Roberto "Bobby" J.
Gonzales	Taos	
43	Los Alamos, Sandoval & Santa Fe	Jeannette O.
Wallace	Los Alamos	
44	Sandoval	Jane E. Powdrell-Culbert
	Corrales	
45	Santa Fe	Jim R. Trujillo
	Santa Fe	
46	Santa Fe	Ben Lujan
	Santa Fe	
47	Santa Fe	Peter F. Wirth
	Santa Fe	
48	Santa Fe	Luciano "Lucky" Varela

Santa Fe		
49	Catron, Socorro & Valencia	Don L. Tripp
Socorro		
50	Bernalillo, Santa Fe & Torrance	Rhonda S. King
Stanley		
51	Otero	Gloria C. Vaughn
Alamogordo		
52	Doña Ana	Joseph Cervantes
Las Cruces		
53	Doña Ana & Otero	Nathan P. Cote
Las Cruces		
54	Eddy & Otero	William J. Gray
Artesia		
55	Eddy	John A. Heaton
Carlsbad		
56	Lincoln & Otero	W. C. "Dub" Williams
Glencoe		
57	Chaves, Lincoln & Otero	Daniel R. Foley
Roswell		
58	Chaves	Candy Spence
Ezzell	Roswell	
59	Chaves, Lincoln & Otero	Nora Espinoza
Roswell		
60	Sandoval	Thomas E. Swisstack
Rio Rancho		
61	Lea	Shirley A. Tyler
Lovington		
62	Lea	Donald E. Bratton
Hobbs		
63	DeBaca, Curry, Guadalupe & Roosevelt	Jose A. Campos
Santa Rosa		
64	Curry	Anna M. Crook
Clovis		
65	Bernalillo, McKinley, Rio Arriba,	James Roger Madalena
Jemez Pueblo		
	& Sandoval	
66	Chaves, Eddy, Lea & Roosevelt	Keith J. Gardner
Roswell		
67	Curry, Harding, Quay, Roosevelt,	Brian K. Moore
Clayton		
	San Miguel & Union	
68	Colfax, Guadalupe, Mora, San Miguel	Thomas A. Garcia
Ocate		
	& Taos	
69	Cibola, McKinley & San Juan	W. Ken Martinez
Grants		

70  
Ribera

San Miguel & Torrance

Richard D. Vigil