

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILLS 240 & 461

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO JURIES; EXPANDING THE JURY POOL TO INCLUDE PERSONAL  
INCOME TAX FILERS; MODIFYING EXCUSALS AND QUALIFICATIONS;  
ALLOWING POSTPONEMENTS; PROVIDING THAT THE SUPREME COURT  
DETERMINE LENGTH OF JURY TERMS; PROTECTING EMPLOYEES; UPDATING  
LANGUAGE ON RANDOM SELECTION OF JURORS TO REFLECT NEW  
TECHNOLOGY; RECONCILING MULTIPLE AMENDMENTS FROM LAWS 2003.

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

Section 1. Section 7-1-8 NMSA 1978 (being Laws 1965,  
Chapter 248, Section 13, as amended by Laws 2003, Chapter 398,  
Section 5 and by Laws 2003, Chapter 439, Section 1) 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

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1 individual other than another employee of the department  
2 information contained in the return of a taxpayer made pursuant  
3 to a law subject to administration and enforcement under the  
4 provisions of the Tax Administration Act or any other  
5 information about a taxpayer acquired as a result of [~~his~~] the  
6 employee's employment by the department and not available from  
7 public sources, except:

8 A. to an authorized representative of another  
9 state; provided that the receiving state has entered into a  
10 written agreement with the department to use the information  
11 for tax purposes only and that the receiving state has enacted  
12 a confidentiality statute similar to this section to which the  
13 representative is subject;

14 B. to a representative of the secretary of the  
15 treasury or the secretary's delegate pursuant to the terms of a  
16 reciprocal agreement entered into with the federal government  
17 for exchange of the information;

18 C. to the multistate tax commission or its  
19 authorized representative; provided that the information is  
20 used for tax purposes only and is disclosed by the multistate  
21 tax commission only to states that have met the requirements of  
22 Subsection A of this section;

23 D. to a district court, an appellate court or a  
24 federal court:

25 (1) in response to an order thereof in an

1 action relating to taxes to which the state is a party and in  
2 which the information sought is about a taxpayer who is party  
3 to the action and is material to the inquiry, in which case  
4 only that information may be required to be produced in court  
5 and admitted in evidence subject to court order protecting the  
6 confidentiality of the information and no more;

7 (2) in an action in which the department is  
8 attempting to enforce an act with which the department is  
9 charged or to collect a tax; or

10 (3) in any matter in which the department is a  
11 party and the taxpayer has put ~~[his]~~ the taxpayer's own  
12 liability for taxes at issue, in which case only that  
13 information regarding the taxpayer who is party to the action  
14 may be produced, but this shall not prevent the disclosure of  
15 department policy or interpretation of law arising from  
16 circumstances of a taxpayer who is not a party;

17 E. to the taxpayer or to the taxpayer's authorized  
18 representative; provided, however, that nothing in this  
19 subsection shall be construed to require any employee to  
20 testify in a judicial proceeding except as provided in  
21 Subsection D of this section;

22 F. information obtained through the administration  
23 of a law not subject to administration and enforcement under  
24 the provisions of the Tax Administration Act to the extent that  
25 release of that information is not otherwise prohibited by law;

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1           G. in a manner, for statistical purposes, that the  
2 information revealed is not identified as applicable to an  
3 individual taxpayer;

4           H. with reference to information concerning the tax  
5 on tobacco imposed by Sections 7-12-1 through 7-12-13 and  
6 Sections 7-12-15 and 7-12-17 NMSA 1978 to a committee of the  
7 legislature for a valid legislative purpose or to the attorney  
8 general for purposes of Section 6-4-13 NMSA 1978 and the master  
9 settlement agreement defined in Section 6-4-12 NMSA 1978;

10           I. to a transferee, assignee, buyer or lessor of a  
11 liquor license, the amount and basis of an unpaid assessment of  
12 tax for which [~~his~~] the transferor, assignor, seller or lessee  
13 is liable;

14           J. to a purchaser of a business as provided in  
15 Sections 7-1-61 through 7-1-63 NMSA 1978, the amount and basis  
16 of an unpaid assessment of tax for which the purchaser's seller  
17 is liable;

18           K. to a municipality of this state upon its request  
19 for a period specified by that municipality within the twelve  
20 months preceding the request for the information by that  
21 municipality:

22                   (1) the names, taxpayer identification numbers  
23 and addresses of registered gross receipts taxpayers reporting  
24 gross receipts for that municipality under the Gross Receipts  
25 and Compensating Tax Act or a local option gross receipts tax

1 imposed by that municipality. The department may also release  
2 the information described in this paragraph quarterly or upon  
3 such other periodic basis as the secretary and the municipality  
4 may agree; and

5 (2) information indicating whether persons  
6 shown on a list of businesses located within that municipality  
7 furnished by the municipality have reported gross receipts to  
8 the department but have not reported gross receipts for that  
9 municipality under the Gross Receipts and Compensating Tax Act  
10 or a local option gross receipts tax imposed by that  
11 municipality.

12 The employees of municipalities receiving information as  
13 provided in this subsection shall be subject to the penalty  
14 contained in Section 7-1-76 NMSA 1978 if that information is  
15 revealed to individuals other than other employees of the  
16 municipality in question or the department;

17 L. to the commissioner of public lands for use in  
18 auditing that pertains to rentals, royalties, fees and other  
19 payments due the state under land sale, land lease or other  
20 land use contracts; the commissioner of public lands and  
21 employees of the commissioner are subject to the same  
22 provisions regarding confidentiality of information as  
23 employees of the department;

24 M the department shall furnish, upon request by  
25 the child support enforcement division of the human services

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1 department, the last known address with date of all names  
2 certified to the department as being absent parents of children  
3 receiving public financial assistance. The child support  
4 enforcement division personnel shall use such information only  
5 for the purpose of enforcing the support liability of the  
6 absent parents and shall not use the information or disclose it  
7 for any other purpose; the child support enforcement division  
8 and its employees are subject to the provisions of this section  
9 with respect to any information acquired from the department;

10 N. the department shall furnish to the information  
11 systems division of the general services department, by  
12 electronic media, a database containing New Mexico personal  
13 income tax filers by county, which shall be updated quarterly.  
14 The database information shall be used only for the purpose of  
15 producing the random jury list for the selection of petit or  
16 grand jurors for the state courts pursuant to Section 38-5-3  
17 NMSA 1978. The database shall not contain any financial  
18 information. If any information in the database is revealed by  
19 an employee of the administrative office of the courts or the  
20 information systems division to individuals other than  
21 employees of the administrative office of the courts, the state  
22 courts, the information systems division or the department, the  
23 employee shall be subject to the penalty provisions of Section  
24 7-1-76 NMSA 1978;

25 [N.] 0. with respect to the tax on gasoline imposed  
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1 by the Gasoline Tax Act, the department shall make available  
 2 for public inspection at monthly intervals a report covering  
 3 the number of gallons of gasoline and ethanol blended fuels  
 4 received and deducted, and the amount of tax paid by each  
 5 person required to file a gasoline tax return or pay gasoline  
 6 tax in the state of New Mexico;

7 ~~[P.]~~ P. the identity of a rack operator, importer,  
 8 blender, supplier or distributor and the number of gallons  
 9 reported on returns required under the Gasoline Tax Act,  
 10 Special Fuels Supplier Tax Act or Alternative Fuel Tax Act to a  
 11 rack operator, importer, blender, distributor or supplier, but  
 12 only when it is necessary to enable the department to carry out  
 13 its duties under the Gasoline Tax Act, the Special Fuels  
 14 Supplier Tax Act or the Alternative Fuel Tax Act;

15 ~~[P.]~~ Q. the department shall release upon request  
 16 only the names and addresses of all gasoline or special fuel  
 17 distributors, wholesalers and retailers to the New Mexico  
 18 department of agriculture, the employees of which are thereby  
 19 subject to the penalty contained in Section 7-1-76 NMSA 1978 if  
 20 that information is revealed to individuals other than  
 21 employees of either the New Mexico department of agriculture or  
 22 the department;

23 ~~[Q.]~~ R. the department shall answer all inquiries  
 24 concerning whether a person is or is not a registered taxpayer  
 25 for tax programs that require registration, but nothing in this

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1 subsection shall be construed to allow the department to answer  
2 inquiries concerning whether a person has filed a tax return;

3 ~~[R.]~~ S. upon request of a municipality or county of  
4 this state, the department shall permit officials or employees  
5 of the municipality or county to inspect the records of the  
6 department pertaining to an increase or decrease to a  
7 distribution or transfer made pursuant to Section 7-1-6.15 NMSA  
8 1978 for the purpose of reviewing the basis for the increase or  
9 decrease. The municipal or county officials or employees  
10 receiving information provided in this subsection shall not  
11 reveal that information to any person other than another  
12 employee of the municipality or the county, the department or a  
13 district court, an appellate court or a federal court in a  
14 proceeding relating to a disputed distribution and in which  
15 both the state and the municipality or county are parties.  
16 Information provided pursuant to provisions of this subsection  
17 that is revealed other than as provided in this subsection  
18 shall subject the person revealing the information to the  
19 penalties contained in Section 7-1-76 NMSA 1978;

20 ~~[S.]~~ T. to a county of this state that has in  
21 effect a local option gross receipts tax imposed by the county  
22 upon its request for a period specified by that county within  
23 the twelve months preceding the request for the information by  
24 that county:

- 25 (1) the names, taxpayer identification numbers

1 and addresses of registered gross receipts taxpayers reporting  
2 gross receipts either for that county in the case of a local  
3 option gross receipts tax imposed on a countywide basis or only  
4 for the areas of that county outside of any incorporated  
5 municipalities within that county in the case of a county local  
6 option gross receipts tax imposed only in areas of the county  
7 outside of any incorporated municipalities. The department may  
8 also release the information described in this paragraph  
9 quarterly or upon such other periodic basis as the secretary  
10 and the county may agree;

11 (2) in the case of a local option gross  
12 receipts tax imposed by a county on a countywide basis,  
13 information indicating whether persons shown on a list of  
14 businesses located within the county furnished by the county  
15 have reported gross receipts to the department but have not  
16 reported gross receipts for that county under the Gross  
17 Receipts and Compensating Tax Act or a local option gross  
18 receipts tax imposed by that county on a countywide basis; and

19 (3) in the case of a local option gross  
20 receipts tax imposed by a county only on persons engaging in  
21 business in that area of the county outside of incorporated  
22 municipalities, information indicating whether persons on a  
23 list of businesses located in that county outside of the  
24 incorporated municipalities but within that county furnished by  
25 the county have reported gross receipts to the department but

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1 have not reported gross receipts for that county outside of the  
2 incorporated municipalities within that county under the Gross  
3 Receipts and Compensating Tax Act or a local option gross  
4 receipts tax imposed by the county only on persons engaging in  
5 business in that county outside of the incorporated  
6 municipalities.

7 The officers and employees of counties receiving  
8 information as provided in this subsection shall be subject to  
9 the penalty contained in Section 7-1-76 NMSA 1978 if the  
10 information is revealed to individuals other than other  
11 officers or employees of the county in question or the  
12 department;

13 [~~F.~~] U. to authorized representatives of an Indian  
14 nation, tribe or pueblo, the territory of which is located  
15 wholly or partially within New Mexico, pursuant to the terms of  
16 a reciprocal agreement entered into with the Indian nation,  
17 tribe or pueblo for the exchange of that information for tax  
18 purposes only; provided that the Indian nation, tribe or pueblo  
19 has enacted a confidentiality statute similar to this section;

20 [~~U.~~] V. information with respect to the taxes or  
21 tax acts administered pursuant to Subsection B of Section 7-1-2  
22 NMSA 1978, except that:

23 (1) information for or relating to a period  
24 prior to July 1, 1985 with respect to Sections 7-25-1 through  
25 7-25-9 and 7-26-1 through 7-26-8 NMSA 1978 may be released only

1 to a committee of the legislature for a valid legislative  
2 purpose;

3 (2) except as provided in Paragraph (3) of  
4 this subsection, contracts and other agreements between the  
5 taxpayer and other parties and the proprietary information  
6 contained in those contracts and agreements shall not be  
7 released without the consent of all parties to the contract or  
8 agreement; and

9 (3) audit workpapers and the proprietary  
10 information contained in the workpapers shall not be released  
11 except to:

12 (a) the minerals management service of  
13 the United States department of the interior, if production  
14 occurred on federal land;

15 (b) a person having a legal interest in  
16 the property that is subject to the audit;

17 (c) a purchaser of products severed from  
18 a property subject to the audit; or

19 (d) the authorized representative of any  
20 of the persons in Subparagraphs (a) through (c) of this  
21 paragraph. This paragraph does not prohibit the release of  
22 proprietary information contained in the workpapers that is  
23 also available from returns or from other sources not subject  
24 to the provisions of this section;

25 [V.] W. information with respect to the taxes,

1 surtaxes, advance payments or tax acts administered pursuant to  
2 Subsection C of Section 7-1-2 NMSA 1978;

3 ~~[W.]~~ X. to the public regulation commission,  
4 information with respect to the Corporate Income and Franchise  
5 Tax Act required to enable the commission to carry out its  
6 duties;

7 ~~[X.]~~ Y. to the state racing commission, information  
8 with respect to the state, municipal and county gross receipts  
9 taxes paid by ~~[race-tracks]~~ racetracks;

10 ~~[Y.]~~ Z. upon request of a corporation authorized to  
11 be formed under the Educational Assistance Act, the department  
12 shall furnish the last known address and the date of that  
13 address of every person certified to the department as an  
14 absent obligor of an educational debt due and owed to the  
15 corporation or that the corporation has lawfully contracted to  
16 collect. The corporation and its officers and employees shall  
17 use that information only to enforce the educational debt  
18 obligation of the absent obligors and shall not disclose that  
19 information or use it for any other purpose;

20 ~~[Z.]~~ AA. a decision and order made by a hearing  
21 officer pursuant to Section 7-1-24 NMSA 1978 with respect to a  
22 protest filed with the secretary on or after July 1, 1993;

23 ~~[AA.]~~ BB. information required by a provision of  
24 the Tax Administration Act to be made available to the public  
25 by the department;

1           ~~[BB.]~~ CC. upon request by the Bernalillo county  
 2 metropolitan court, the department shall furnish the last known  
 3 address and the date of that address for every person the court  
 4 certifies to the department as a person who owes fines, fees or  
 5 costs to the court or who has failed to appear pursuant to a  
 6 court order or a promise to appear;

7           ~~[CC.]~~ DD. upon request by a magistrate court, the  
 8 department shall furnish the last known address and the date of  
 9 that address for every person the court certifies to the  
 10 department as a person who owes fines, fees or costs to the  
 11 court or who has failed to appear pursuant to a court order or  
 12 a promise to appear;

13           ~~[DD.]~~ EE. to the national tax administration  
 14 agencies of Mexico and Canada, provided the agency receiving  
 15 the information has entered into a written agreement with the  
 16 department to use the information for tax purposes only and is  
 17 subject to a confidentiality statute similar to this section;

18           ~~[EE.]~~ FF. to a district attorney, a state district  
 19 court grand jury or federal grand jury for an investigation of  
 20 or proceeding related to an alleged criminal violation of the  
 21 tax laws;

22           ~~[FF.]~~ GG. to a third party subject to a subpoena or  
 23 levy issued pursuant to the provisions of the Tax  
 24 Administration Act, the identity of the taxpayer involved, the  
 25 taxes or tax acts involved and the nature of the proceeding;

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1 [and

2 ~~GG-~~ HH. to the gaming control board, tax returns  
3 of license applicants and their affiliates as defined in  
4 Subsection E of Section 60-2E-14 NMSA 1978; and

5 II. any written ruling on questions of evidence or  
6 procedure made by a hearing officer pursuant to Section 7-1-24  
7 NMSA 1978; provided that the name and identification number of  
8 the taxpayer requesting the ruling shall not be provided. "

9 Section 2. A new section of Chapter 38, Article 5 NMSA  
10 1978 is enacted to read:

11 "[NEW MATERIAL] LEGISLATIVE DECLARATION. --It is the policy  
12 of this state that all qualified citizens have an obligation to  
13 serve on juries and to give truthful information concerning  
14 attitudes, opinions and feelings about topics relevant to the  
15 proceeding for which they are called to serve when summoned by  
16 the courts of this state. "

17 Section 3. A new section of Chapter 38, Article 5 NMSA  
18 1978 is enacted to read:

19 "[NEW MATERIAL] POSTPONEMENT OF PETIT JURY SERVICE. --

20 A. A person scheduled to appear for service on a  
21 petit jury may request a postponement of the date of initial  
22 appearance for jury service. The request for postponement  
23 shall be granted if the juror:

24 (1) has not previously been granted a  
25 postponement; and

1 (2) agrees to a future date, approved by the  
2 court, when the juror will appear for jury service that is not  
3 more than six months after the date on which the prospective  
4 juror originally was called to serve.

5 B. A subsequent request to postpone jury service  
6 may be approved by the court only in the event of an emergency  
7 that could not have been anticipated at the time the initial  
8 postponement was granted. Prior to the grant of a subsequent  
9 postponement, the prospective juror must agree to a future date  
10 on which the juror will appear for jury service within six  
11 months of the postponement.

12 C. A court shall postpone and reschedule the  
13 service of a summoned juror, without affecting the summoned  
14 juror's right to request a postponement under Subsections A and  
15 B of this section, if the summoned juror is:

16 (1) employed by an employer with five or fewer  
17 full-time employees, or their equivalent, and another employee  
18 of the same employer is summoned to appear during the same  
19 period;

20 (2) the only person performing particular  
21 services for a business, commercial or agricultural enterprise  
22 and whose services are so essential to the operations of the  
23 business, commercial or agricultural enterprise that the  
24 enterprise must close or cease to function if the person is  
25 required to perform jury duty; or

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1 (3) required to attend to an emergency as  
2 determined by the judge. "

3 Section 4. Section 38-5-1 NMSA 1978 (being Laws 1969,  
4 Chapter 222, Section 1, as amended) is amended to read:

5 "38-5-1. QUALIFICATION OF JURORS. -- ~~[Any]~~ A person who is  
6 at least eighteen years of age, a United States citizen and a  
7 resident of New Mexico residing in the county for which a jury  
8 may be convened ~~[and is not a convicted felon]~~ is eligible and  
9 may be summoned for service as a juror by the ~~[district courts~~  
10 ~~and magistrate]~~ courts, unless the person is incapable of  
11 rendering jury service because of:

12 A. physical or mental illness or infirmity ~~[to~~  
13 ~~render jury service]~~; or

14 B. undue or extreme physical or financial  
15 hardship. "

16 Section 5. Section 38-5-2 NMSA 1978 (being Laws 1973,  
17 Chapter 150, Section 1, as amended) is amended to read:

18 "38-5-2. EXEMPTION FROM JURY SERVICE- - EXCUSALS- - SERVICE  
19 OF DISQUALIFIED JUROR. -- ~~[Persons]~~

20 A. A person who ~~[have]~~ has served as ~~[members]~~ a  
21 member of a petit jury panel or a grand jury in either state or  
22 federal courts within the preceding thirty-six months shall be  
23 exempt from sitting or serving as ~~[jurors]~~ a juror in ~~[any of~~  
24 ~~the courts]~~ a court of this state when ~~[they, at their option,~~  
25 ~~request]~~ the person requests to be ~~[excused]~~ exempted from

1 service by reason of the exemption granted by this ~~[section]~~  
2 subsection.

3 ~~[Any other]~~ B. A person may be excused from jury  
4 service at the discretion of the judge or the judge's designee,  
5 [upon satisfactory evidence presented to the judge] with or  
6 without the person's personal attendance upon the court, if:

7 (1) jury service would cause undue or extreme  
8 physical or financial hardship to the prospective juror or to a  
9 person under the prospective juror's care or supervision;

10 (2) the person has an emergency that renders  
11 the person unable to perform jury service; or

12 (3) the person presents other satisfactory  
13 evidence to the judge or the judge's designee.

14 C. A person requesting an exemption or an excuse  
15 from jury service shall take all necessary action to obtain a  
16 ruling on the request no later than the date on which the  
17 person is scheduled to appear for jury duty.

18 D. The judge, in [his] the judge's discretion, upon  
19 granting any excuse, may disallow the fees and mileage of the  
20 person excused.

21 E. The service upon [any] a jury of [any] a person  
22 disqualified shall, of itself, not vitiate any indictment found  
23 or any verdict rendered by that jury, unless actual injury to  
24 the person complaining of the injury is shown.

25 F. As used in this section and Section 38-5-1 NMSA

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1 1978, "undue or extreme physical or financial hardship":

2 (1) means circumstances in which a person  
3 would:

4 (a) be required to abandon another  
5 person under the person's care or supervision due to the  
6 extreme difficulty of obtaining an appropriate substitute  
7 caregiver during the period of jury service;

8 (b) incur costs that would have a  
9 substantial adverse impact on the payment of necessary daily  
10 living expenses of the person or the person's dependent; or

11 (c) suffer physical hardship that would  
12 result in illness or disease; and

13 (2) does not exist solely because a  
14 prospective juror will be absent from employment."

15 Section 6. Section 38-5-3 NMSA 1978 (being Laws 1991,  
16 Chapter 71, Section 2) is amended to read:

17 "38-5-3. SOURCE FOR JUROR SELECTION. --

18 A. Each county clerk shall make available to the  
19 secretary of state a database of registered voters of ~~[his]~~ the  
20 clerk's county. The secretary of state shall preserve and make  
21 available to the information systems division of the general  
22 services department, by electronic media, a database of New  
23 Mexico registered voters, by county, which shall be updated  
24 monthly. The director of the motor vehicle division of the  
25 taxation and revenue department shall make available by

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1 electronic media to the information systems division of the  
 2 general services department a database of driver's license  
 3 holders in each county, which shall be updated monthly. The  
 4 secretary of taxation and revenue shall make available to the  
 5 information systems division of the general services  
 6 department, by electronic media, a database of New Mexico  
 7 personal income tax filers by county, which shall be updated  
 8 quarterly.

9 B. The information systems division of the general  
 10 services department shall program the merger of the registered  
 11 voter, [~~and~~] driver's license and personal income tax filer  
 12 databases from each county to form a master jury database and  
 13 write a computer program so that a random selection of jurors  
 14 can be made. [~~No~~] A discrimination shall not be exercised  
 15 except for the elimination of persons who are not eligible for  
 16 jury service. The administrative office of the courts shall  
 17 provide specifications for the merging of the registered voter,  
 18 [~~and~~] driver's license and personal income tax filer databases.  
 19 The merged database information shall be the database that  
 20 produces the random jury list for the selection of petit or  
 21 grand jurors for the [~~district and magistrate~~] state courts.

22 C. The [~~district or magistrate~~] court shall, by  
 23 order, designate the number of potential jurors to be selected  
 24 and the date on which the jurors are to report for empaneling.  
 25 Within fifteen days after receipt of a copy of the order, the

1 administrative office of the courts shall provide the random  
2 jury list to the court. The information systems division of  
3 the general services department shall print the random jury  
4 list and jury summons mailer forms within ten days after  
5 receiving the request from the administrative office of the  
6 courts. Upon issuance of the order, the information systems  
7 division of the general services department shall draw from the  
8 most current registered voter, [~~and~~] driver's license and  
9 personal income tax filer databases to create the random jury  
10 list.

11 D. The information systems division of the general  
12 services department may transfer the master jury database to a  
13 [~~district or magistrate~~] court that has compatible equipment to  
14 accept such a transfer. The court accepting the master jury  
15 database shall transfer the information to a programmed  
16 computer used for the random selection of petit or grand  
17 jurors. "

18 Section 7. Section 38-5-11 NMSA 1978 (being Laws 1969,  
19 Chapter 222, Section 11, as amended) is amended to read:

20 "38-5-11. QUALIFYING JURY PANELS. --

21 A. The court shall empanel jurors in a random  
22 manner. The [~~district~~] judge or [~~his~~] the judge's designee [~~or~~  
23 ~~magistrate or his designee~~] shall preside over the empaneling  
24 of a petit jury panel. The district judge or [~~his~~] the judge's  
25 designee shall preside over the empaneling of the grand jury

1 panel. Jurors who appear for service shall be questioned under  
 2 oath as to their eligibility for jury service by the [~~district~~]  
 3 judge or [~~his~~] the judge's designee [~~or magistrate or his~~  
 4 ~~designee~~]. Claims of exemption, requests for excuse from  
 5 service or postponement of [~~services~~] service shall be ruled  
 6 upon by the [~~district~~] judge or [~~his~~] the judge's  
 7 [~~or magistrate or his designee~~].

8 ~~B. A district judge or his designee or magistrate~~  
 9 ~~or his designee may excuse, exclude or postpone the services of~~  
 10 ~~any person called as a juror on the basis of:~~

11 ~~(1) physical or mental illness of the person~~  
 12 ~~or within his immediate family;~~

13 ~~(2) a written request from the person's~~  
 14 ~~employer for excuse on the ground that his services are~~  
 15 ~~essential; or~~

16 ~~(3) the person's prior business, professional~~  
 17 ~~or educational commitments which conflict with jury service,~~  
 18 ~~proven to the satisfaction of the district judge or his~~  
 19 ~~designee or magistrate or his designee.~~

20 ~~C.]~~ B. The [~~district~~] judge or [~~his~~] the judge's  
 21 designee [~~or magistrate or his designee~~] shall submit  
 22 questionnaires to prospective jurors to:

23 (1) obtain any information that will aid the  
 24 court in ruling on requests for exemption or excuse from  
 25 service or postponement of service [~~or that will~~];

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1                   (2) aid the court ~~[or]~~ and the parties in voir  
2 dire examination of jurors or in determining a juror's  
3 qualifications to serve on a particular petit jury  
4 panel, trial jury or grand jury; or

5                   (3) aid in the determination of challenges for  
6 cause and peremptory challenges.

7                   C. The ~~[district]~~ judge or ~~[his]~~ the judge's  
8 designee ~~[or magistrate or his designee]~~ shall certify a  
9 numbered list of the jury panel members' names when qualified.  
10 The certified list of jurors and the questionnaires obtained  
11 from jurors shall be made available for inspection and copying  
12 by ~~[any]~~ a party to ~~[any]~~ a pending proceeding or their  
13 attorney or to any person having good cause for access to the  
14 list and the questionnaires. "

15                   Section 8. Section 38-5-12 NMSA 1978 (being Laws 1969,  
16 Chapter 222, Section 12, as amended) is amended to read:

17                   "38-5-12. PETIT JURY PANELS--NUMBER TO BE QUALIFIED--  
18 PERIOD OF SERVICE--~~[EXEMPTION]~~ TIME FOR SUMMONING.--

19                   A. The ~~[district]~~ judge shall determine the number  
20 of jurors to be summoned for service, the date and time for the  
21 appearance of jurors for qualification, the number of jurors to  
22 be qualified to provide panels of jurors for trial service and  
23 the size of trial jury panels ~~[and the length of time jurors~~  
24 ~~are retained for service]~~. Procedures such as the use of  
25 alternate jury panels should be established where appropriate

1 to lessen the burden of jury service on persons retained on  
 2 petit jury panels. ~~[No person may be required to remain as a~~  
 3 ~~member of a petit jury panel for longer than six months~~  
 4 ~~following qualification as a juror in any year and in any~~  
 5 ~~judicial district having a population of more than three~~  
 6 ~~hundred thousand persons in the last federal decennial census,~~  
 7 ~~no person may be required to remain as a member of an actual~~  
 8 ~~jury panel for longer than six weeks in any calendar year~~  
 9 ~~unless the panel is engaged in a trial, nor shall he be~~  
 10 ~~required to remain as a member of a petit jury panel for longer~~  
 11 ~~than three months following qualification as a juror in any~~  
 12 ~~year. Persons who have served as members of a petit jury panel~~  
 13 ~~or a grand jury in either state or federal courts within the~~  
 14 ~~preceding thirty six months shall be exempt from sitting or~~  
 15 ~~serving as jurors in any of the courts of this state when they,~~  
 16 ~~at their option, request to be excused from service.]~~ Jurors  
 17 may be drawn, summoned and qualified by the ~~[district]~~ judge at  
 18 any time to supplement jury panels requiring replacement or  
 19 augmentation. Petit jury panels may be qualified and may serve  
 20 as the trial needs of the ~~[district]~~ court require without  
 21 regard to court terms.

22 B. The supreme court shall establish, by rule, the  
 23 appropriate length of jury terms. The court shall consider the  
 24 number of trials held, the availability of jurors and the  
 25 administrative and financial impact."

1 Section 9. Section 38-5-13 NMSA 1978 (being Laws 1969,  
2 Chapter 222, Section 13, as amended) is amended to read:

3 "38-5-13. [~~JURY LOT SLIP CONTAINER~~] DRAWING AND  
4 QUALIFYING TRIAL JURY. -- [~~A.~~] The district court of each county  
5 shall [~~provide one jury lot slip container to hold the juror~~  
6 ~~lot slips for the selection of trial juries.~~ The container  
7 ~~shall be constructed in a manner that allows the juror lot~~  
8 ~~slips to be securely locked within and shall have a transparent~~  
9 ~~window of sufficient size to permit the juror lot slips to be~~  
10 ~~clearly visible.~~ The clerk of the district court of each  
11 ~~county is responsible for the safekeeping of the jury lot slip~~  
12 ~~container.~~

13 B. ~~The lot slips bearing an identification number~~  
14 ~~and] maintain a list of the names of the jurors duly empaneled~~  
15 ~~and present for the trial of a case [~~folded to conceal the name~~~~  
16 ~~and number, shall be placed in a trial jury wheel].~~ The judge  
17 shall cause the [~~lot slips to be drawn singly from the~~  
18 ~~container] names to be randomly selected until sufficient names  
19 have been drawn to provide the number of jurors required for  
20 the trial. [~~The container shall be shaken or rotated to cause~~  
21 ~~the lot slips to be mixed.~~] The name and number of each juror  
22 shall be announced [~~as it is called and recorded~~]. Twelve or  
23 six jurors shall compose a petit jury in the district courts  
24 for the trial of civil causes. Twelve jurors shall compose a  
25 petit jury in criminal and children's court cases. [A~~

1 ~~programmed computer may be used in lieu of a jury lot slip~~  
2 ~~container to randomly select trial juries.] Magistrate and~~  
3 metropolitan jury court selection shall be conducted in  
4 accordance with supreme court rules. "

5 Section 10. Section 38-5-18 NMSA 1978 (being Laws 1979,  
6 Chapter 47, Section 1) is amended to read:

7 "38-5-18. EMPLOYER PROHIBITED FROM PENALIZING EMPLOYEE  
8 FOR JURY SERVICE. --

9 A. An employer shall not deprive an employee of  
10 [his] employment or threaten or otherwise coerce [him with  
11 respect thereto] the employee because the employee receives a  
12 summons for jury service, responds [thereto] to the summons,  
13 serves as a juror or attends court for prospective jury  
14 service.

15 B. An employer shall not require or request an  
16 employee to use annual, vacation or sick leave for time spent  
17 responding to a summons for jury service, participating in the  
18 jury selection process or serving on a jury. Nothing in this  
19 subsection requires an employer to provide annual, vacation or  
20 sick leave to employees who are not otherwise entitled to those  
21 benefits under company policies. "

22 Section 11. EFFECTIVE DATE. --The effective date of the  
23 provisions of this act is July 1, 2005.

underscored material = new  
[bracketed material] = delete