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SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILLS 240 & 461

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

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AN ACT

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RELATING TO JURIES; EXPANDING THE JURY POOL TO INCLUDE PERSONAL

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INCOME TAX FILERS; MODIFYING EXCUSALS AND QUALIFICATIONS;

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ALLOWING POSTPONEMENTS; PROVIDING THAT THE SUPREME COURT

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DETERMINE LENGTH OF JURY TERMS; PROTECTING EMPLOYEES; UPDATING

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LANGUAGE ON RANDOM SELECTION OF JURORS TO REFLECT NEW

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TECHNOLOGY; RECONCILING MULTIPLE AMENDMENTS FROM LAWS 2003.

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

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Section 1. Section 7-1-8 NMSA 1978 (being Laws 1965,

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Chapter 248, Section 13, as amended by Laws 2003, Chapter 398,

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Section 5 and by Laws 2003, Chapter 439, Section 1) is amended

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to read:

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"7-1-8. CONFIDENTIALITY OF RETURNS AND OTHER

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INFORMATION.--It is unlawful for an employee of the department

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or a former employee of the department to reveal to an

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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 [~~his~~] the
employee's employment by the department and not available from
public sources, except:

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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;

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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;

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

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D. to a district court, an appellate court or a
federal court;

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(1) in response to an order thereof in an

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action relating to taxes 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 ~~[his]~~ 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;

E. 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 D of this section;

F. 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~~ ~~under such circumstances as may be determined by the department~~ ~~the release of that information is not otherwise prohibited by law;~~

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

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H. with reference to information concerning the tax on tobacco imposed by Sections 7-12-1 through 7-12-13 and Sections 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;

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

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J. 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;

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K. 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:

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(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

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4 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

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 ~~underbracketed material, new delete~~ M. the department shall furnish, upon request by
25 the child support enforcement division of the human services

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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;

N. 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

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7-1-76 NMSA 1978:

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[N.] O. with respect to the tax on gasoline imposed

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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;

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

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[R-] S. 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 penalties contained in Section 7-1-76 NMSA 1978;

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[S-] T. 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

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that county:
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(1) the names, taxpayer identification numbers

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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;

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~~
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25 the county have reported gross receipts to the department but

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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.

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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;

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~~[F.]~~ U. 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;

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

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(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

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

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(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

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

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

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

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

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(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

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to the provisions of this section;

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

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

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~~[W.]~~ X. 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;

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

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~~[Y.]~~ Z. 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;

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~~[Z.]~~ AA. 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;

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

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~~[BB.]~~ CC. 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;

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~~[CC.]~~ DD. 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;

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~~[DD.]~~ EE. 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;

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~~[EE.]~~ FF. 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;

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~~[FF.]~~ GG. to a third party subject to a subpoena or levy issued pursuant to the provisions of the Tax

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~~Administration Act, the identity of the taxpayer involved, the~~
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taxes or tax acts involved and the nature of the proceeding;

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[~~and~~

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~~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

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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."

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

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"[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."

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

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

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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:

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~~underbracketed material] now delete~~ (1) has not previously been granted a
25 postponement; and

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

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

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

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

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

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

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

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

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

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B. undue or extreme physical or financial hardship."

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

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

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

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

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

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

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

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

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

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

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

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

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

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(1) means circumstances in which a person

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would:

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(a) be required to abandon another

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person under the person's care or supervision due to the

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extreme difficulty of obtaining an appropriate substitute

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caregiver during the period of jury service;

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(b) incur costs that would have a

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substantial adverse impact on the payment of necessary daily

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living expenses of the person or the person's dependent; or

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(c) suffer physical hardship that would

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result in illness or disease; and

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(2) does not exist solely because a

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prospective juror will be absent from employment."

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Section 6. Section 38-5-3 NMSA 1978 (being Laws 1991,

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Chapter 71, Section 2) is amended to read:

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

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A. Each county clerk shall make available to the

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secretary of state a database of registered voters of ~~[his]~~ the

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clerk's county. The secretary of state shall preserve and make

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available to the information systems division of the general

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services department, by electronic media, a database of New

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Mexico registered voters, by county, which shall be updated

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monthly. The director of the motor vehicle division of the

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taxation and revenue department shall make available by

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electronic media to the information systems division of the general services department 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 information systems division of the general services department, by electronic media, a database of New Mexico personal income tax filers by county, which shall be updated quarterly.

B. The information systems division of the general services department shall program the merger of the registered voter, ~~[and]~~ 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. ~~[No]~~ 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, ~~[and]~~ 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 ~~[district and magistrate]~~ state courts.

C. The ~~[district or magistrate]~~ 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. ~~underscored material, redelete~~
Within fifteen days after receipt of a copy of the order, the

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administrative office of the courts shall provide the random jury list to the court. The information systems division of the general services department 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 information systems division of the general services department shall draw from the most current registered voter, ~~and~~ driver's license and personal income tax filer databases to create the random jury list.

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D. The information systems division of the general services department may transfer the master jury database to a ~~[district or magistrate]~~ 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."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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A. The ~~[district]~~ judge shall determine the number of jurors to be summoned for service, the date and time for the appearance of jurors for qualification, the number of jurors to be qualified to provide panels of jurors for trial service and the size of trial jury panels ~~[and the length of time jurors~~

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underbracketed material, new delete

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~~are retained for service]~~. Procedures such as the use of alternate jury panels should be established where appropriate

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

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

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

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

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

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

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

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

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

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